IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,[1] Debtors.	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
DEFENSE LOGISTICS AGENCY, Appellant, v. NOBLE SUPPLY & LOGISTICS, LLC, Appellee.	C.A. No. 26-1433 (UNA) Adv. Proc. No. 26-50885 (CTG)

EMERGENCY MOTION OF THE UNITED STATES FOR A STAY PENDING APPEAL AND A TEMPORARY ADMINISTRATIVE STAY

Appellant United States of America, on behalf of the Defense Logistics Agency ("DLA"), hereby moves ("Motion"), under Rules 8007(b) and 8013(d) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), for emergency

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

consideration of a stay pending appeal of the Bankruptcy Court's *Order (I) Granting in Part and Denying in Part Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment, (III) Granting in Part and Denying in Part the United States' Motion to Dismiss, and (III) Denying the United States' Cross-Motion for Summary Judgment* [Adv. D.I. 50] (the "Turnover Order")[2] directing DLA to pay Noble Supply & Logistics, LLC ("Noble") $8,458,217.45 by November 9, 2026, and, if necessary, for a temporary administrative stay of the Turnover Order while the Court decides this Motion. True and correct copies of the Bankruptcy Court's Turnover Order and the Bankruptcy Court's related *Memorandum Opinion* [Adv. D.I. 43] ("Opinion") are attached as **Exhibit 1**. DLA filed a timely notice of appeal on November 5 and amended its notice on November 6.[3] Adv. D.I. 48, 51.

[2] Citations to "Adv. D.I." are to the docket of the adversary proceeding, *Noble Supply & Logistics, LLC, v. Defense Logistics Agency*, Adv. Proc. No. 26-50885 (Bankr. D. Del.), and citations to "Bankr. D.I." are to the docket of the main bankruptcy case, *In re Noble Supply & Logistics, LLC, et al.*, No. 26-11369 (Bankr. D. Del.).

[3] The United States moves for a stay pending appeal in this Court pursuant to Federal Rule of Bankruptcy Procedure 8007(b) because obtaining a stay pending appeal from the Bankruptcy Court is impracticable. Prior to issuing its Opinion, the Bankruptcy Court agreed to a short administrative stay of its Turnover Order to allow the United States to seek a stay. Hr'g Tr. 163:19–164:3 (Oct. 28, 2026) ("Tr.") (Exs. 2, 5-I). Asking the Bankruptcy Court to reconsider this decision and itself stay the Turnover Order pending completion of this appeal is likely futile as the Bankruptcy Court has already instructed DLA to seek the stay from this Court.

NOBLE'S CONSENT TO AN ADMINISTRATIVE STAY

As discussed more fully in the Statement under Local Rule 7.1, Noble has consented to a court-ordered administrative stay until no later than November 16, while the Court decides this motion for a stay pending appeal.

PRELIMINARY STATEMENT

1. Noble, a supply chain management company, formerly held, relevant here, two indefinite-delivery, indefinite-quantity contracts ("IDIQ Contracts") with DLA to supply goods and services to the United States' armed forces. On August 27, 2026, performance issues under the IDIQ Contracts led DLA to terminate the contracts for cause. Noble and certain affiliates filed chapter 11 bankruptcy cases (the "Bankruptcy Cases") three days later, on August 30, 2026.

2. On October 6, Noble filed a complaint initiating an adversary proceeding in the Bankruptcy Court seeking to recover funds allegedly due under the IDIQ Contracts. Noble asserts two claims: one for breach of contract and one for "turnover" under section 542(b) of title 11 of the United States Code (the "Bankruptcy Code"). Both claims allege the same amounts due under the IDIQ Contracts and the same bases for DLA's refusal to pay.

3. Noble sought partial summary judgment on both counts for approximately $14.5 million it claimed due for goods delivered prior to the August 27 contract termination. After an expedited briefing schedule and hearing, the

Bankruptcy Court entered its Opinion on November 2, 2026,[4] concluding that it lacked jurisdiction over Noble's breach of contract claim because the United States had not waived sovereign immunity for adjudication by the Bankruptcy Court. *See* 28 U.S.C. § 1491(a)(1).

4. Though the Bankruptcy Court acknowledged that the Tucker Act requires adjudication of contract disputes against the United States in the United States Court of Federal Claims, the Bankruptcy Court nonetheless granted partial summary judgment to Noble on its disguised breach of contract claim labeled as "turnover." In doing so, the Bankruptcy Court adjudicated the merits of both Noble's and DLA's performance under the IDIQ Contracts and found that DLA owed Noble a "matured" contractual debt of $8,493,160.09 subject to turnover under 11 U.S.C. § 542(b). The Bankruptcy Court entered the Turnover Order on November 6, 2026, ordering such funds be remitted for payment by November 9, 2026.[5]

[4] In the Opinion, the Bankruptcy Court also addresses setoff of DLA's obligations under the IDIQ Contracts against potential United States claims against Noble. The Court previously addressed similar issues in an order entered September 18, 2026 (the "September Order") granting Noble's motion to compel DLA's payment of a separate $6,434,434.37 under the IDIQ Contracts. See Bankr. D.I. 151. The United States' appeal of the September Order is pending in this Court. See *United States of America v. Noble Supply & Logistics, LLC, et al.*, No. 26-1279-JLH (D. Del.).

[5] The Opinion found $8,493,160.09 in matured debts. Op. 34. The Turnover Order directs payment of the reduced amount of $8,458,217.45, which accounts for fast-pay deliveries DLA has already paid. Turnover Order ¶ 5; Op. Ex. B at 1, 3 n.4.

5. The United States appeals the Turnover Order concurrently with this Motion, and it respectfully submits that a stay of the Turnover Order pending the outcome of this appeal is warranted. As more fully described below, the United States is likely to succeed on the merits of its appeal because the Bankruptcy Court's Opinion not only conflicts with settled law preventing adjudication of disputed contract claims through a turnover action but also ignores the IDIQ Contracts' terms governing acceptance and payment obligations in government defense contracts. DLA will suffer irreparable harm if compelled to pay $8.5 million to Noble before this Court decides the appeal because Noble is a liquidating debtor and DLA will be unable to later recover any funds transferred to Noble should the Bankruptcy Court's turnover determination be reversed.

6. The balance of harms and public interest also favor a stay. There is no evidence that Noble needs immediate access to the $8.5 million, but, as noted above, the United States will be unable to recover paid amounts after its position is vindicated on appeal. Noble has threatened repeatedly to "convert" its bankruptcy case to chapter 7 if it does not receive monies immediately from DLA. While the Bankruptcy Court appears to have taken these threats at face value, there is no evidence that Noble is on the precipice of administrative insolvency, and Noble admitted it has sufficient cash to fund the bankruptcy through November 16. Similarly, there is little doubt that the public interest militates in favor of a stay. The

United States should not be forced to release taxpayer dollars allocated to the armed services to a former contractor under federal investigation, and with no continuing contractual relationship with the United States.[6]

JURISDICTION AND VENUE

7. The Court has jurisdiction over this motion for a stay pending appeal under 28 U.S.C. §§ 158(a)(1) and 1334 and Bankruptcy Rule 8007. Venue for this motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. Noble's Bankruptcy Filing and Its Contracts With DLA

8. On August 30, 2026 (the "Petition Date"), Noble and certain of its affiliates filed voluntary petitions under chapter 11 of the Bankruptcy Code. *See In re Noble Supply & Logistics, LLC*, No. 26-11369 (Bankr. D. Del.).

9. Prior to the Petition Date, Noble held, relevant here, two IDIQ Contracts to provide DLA defense-related supplies and services through individual orders. DLA terminated these two contracts on August 27, 2026. In addition to the

[6] As set forth in paragraphs 16-18 below, the United States requests that, if the Court determines a stay pending appeal cannot be issued prior to the close of business on Monday, November 9, 2026, the Court issue a temporary administrative stay to permit adjudication of this Motion.

terms of the IDIQ Contracts, which incorporate applicable provisions of the FAR[7]—the primary rulebook used by the United States to acquire goods and services with appropriated funds—the contracts are governed by the Contract Disputes Act ("CDA"), 41 U.S.C. §§ 7101-7109.

B. The Adversary Proceeding and Summary Judgment Motions

10. On October 6, 2026, Noble filed its adversary proceeding against DLA, seeking approximately $19 million for DLA's alleged breach of contract (or, alternatively, an order for DLA to turn over such amounts), for certain goods allegedly delivered by Noble and purportedly accepted by DLA. *See* Adv. D.I. 1 ¶¶ 29, 38, 44, 55. Concurrent with filing the adversary proceeding, Noble filed a motion for partial summary judgment for its breach of contract and turnover claims related to roughly 108 deliveries of goods or services allegedly provided prior to DLA's termination of the IDIQ Contracts [Adv. D.I. 3, 4], seeking immediate payment of roughly $14.5 million of the $19 million sought in the adversary proceeding. *See* Decl. of Robert Albergotti ("Albergotti Declaration") at ¶ 17 [Adv. D.I. 5-1].

11. On October 20, 2026, the United States opposed Noble's motion for partial summary judgment, moved to dismiss the complaint, and cross-moved for partial summary judgment, arguing the Tucker Act, 28 U.S.C. § 1491, vests

[7] Federal Acquisition Regulation ("FAR"), 48 C.F.R. Ch. 1. The IDIQ Contracts incorporate FAR § 52.212-4 in full. Adv. D.I. 5-1 at 10-13.

exclusive jurisdiction for contract claims against the United States with the United States Court of Federal Claims, depriving the Bankruptcy Court of jurisdiction over Noble's breach of contract claims. The United States contended that Noble's section 542 turnover claim was substantively a disguised breach of contract claim and disputed that amounts are currently due for the approximately 108 deliveries at issue. *See* Adv. D.I. 19. DLA explained that Noble's proofs of deliveries were insufficient to trigger a payment obligation by DLA under the terms of the IDIQ Contracts for several reasons, including because DLA had not accepted the goods. *See* Decl. of John S. Cuorato ("Cuorato Declaration") at ¶¶ 8-17 [Adv. D.I. 19-2].

12. On October 28, 2026, the Bankruptcy Court heard these motions and asked the parties to submit supplemental letters by October 30 on whether the amounts allegedly due on the approximately 108 deliveries are undisputed or mature. *See* Adv. D.I. 41, 42.

C. The Bankruptcy Court's Opinion, Turnover Order, and Administrative Stay

13. On November 2, 2026, the Bankruptcy Court issued the Opinion, holding that it would dismiss without prejudice Noble's breach claim for lack of jurisdiction because the Tucker Act's waiver of sovereign immunity for contract claims "is limited to suits in the Court of Federal Claims." Op. 31. With respect to Noble's turnover claim, the Bankruptcy Court held that Bankruptcy Code § 106(a)

waives sovereign immunity for valid turnover actions, but that turnover "does not provide a means to adjudicate an underlying contract dispute." Op. 3, 20–22.

14. To determine whether Noble's alleged turnover claim was subject to a "real dispute," the Bankruptcy Court used the summary judgment standard—whether there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. Op. 24. Purporting to apply that standard, it found $8,493,160.09 in mature, undisputed debts owed by DLA were subject to turnover. It concluded the remaining $6,073,107.93 is genuinely disputed and, therefore, not subject to turnover. Op. 34; Op. Ex. A.

15. The Bankruptcy Court briefly administratively stayed its ruling, giving the United States "five days to get the District Court or the Third Circuit to grant a further stay pending appeal." Tr. 163:20–21; *see* Tr. 163:19–164:1 ("I want to be respectful of them and not jam them unduly but I also think I have no choice but to jam them a bit under the circumstances of the case."). The Bankruptcy Court's Opinion directs DLA to "make payment to Noble on the" $8,493,160.09 by November 9, 2026, "unless, of course, [the Bankruptcy] Court's orders are stayed or reversed before then." Op. 40–41. The Bankruptcy Court did not address Noble's failure to sue the correct government entity, as Congress has not authorized DLA to be sued in its own name. *See* Adv. D.I. 19 Part II.B.

RELIEF REQUESTED

16. The United States requests emergency consideration of a stay pending appeal pursuant to Bankruptcy Rule 8007(b). Noble consents to an administrative stay while this Motion is decided, until no later than November 16th.

17. The United States agrees to an administrative stay until November 16th, provided the Court is able to issue a decision on the Motion by November 10th. This would allow the United States sufficient time for further appeal if necessary prior to the expiration of the administrative stay, and thus avoid potential mootness and irreparable harm to DLA.

18. The United States has submitted two proposed orders for this relief: (a) Proposed Order A, temporarily administratively staying the Turnover Order until the Court rules on this Motion; and (b) Proposed Order B, staying the Turnover Order pending appeal without a bond. The United States requests that the Court enter Proposed Order A on November 6th (today) and Proposed Order B on or before November 10th.

ARGUMENT

19. The United States is entitled to a stay pending appeal, and a temporary administrative stay until this Court issues a stay pending appeal, because the four stay factors applicable in the Third Circuit weigh in favor of a stay: (1) the United States is likely to succeed on the merits of its appeal; (2) DLA will be irreparably

harmed absent the stay; (3) there is no evidence a short stay will harm Noble; and (4) protecting taxpayer dollars and a consistent application of government contracting rules, including the FAR, serves the public interest. *See Nken v. Holder*, 556 U.S. 418, 434 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)); *In re Revel AC, Inc.*, 802 F.3d 558, 568 (3d Cir. 2015). Of these four factors, the "first two . . . are the most critical." *Nken*, 556 U.S. at 434.

I. The United States is likely to succeed on the merits of its appeal.

20. To establish a likelihood of success on the merits of an appeal, a movant must show "a reasonable chance, or probability, of winning," which must be more than "better than negligible" but "need not be 'more likely than not.'" *Revel*, 802 F.3d at 568–69 (citations omitted).

21. The United States is likely to succeed on the merits of this appeal. As the Bankruptcy Court itself explained, turnover "does not provide a means to adjudicate an underlying contract dispute." Op. 3. A debtor "cannot use the turnover provisions to liquidate contract disputes." Op. 23 (quoting *United States v. Inslaw, Inc.*, 932 F.2d 1467, 1472 (D.C. Cir. 1991)). The Third Circuit has made the same point: an ordinary contract claim does not become a "core" turnover proceeding because the plaintiff calls it turnover. *Beard v. Braunstein*, 914 F.2d 434, 444-45 (3d Cir. 1990) (finding unpaid rent claim was a non-core contract breach claim not subject to turnover); *see* Op. 22. Instead, "Congress envisioned the turnover

provision of § 542 . . . to apply to tangible property and money due to the debtor without dispute which are fully matured and payable on demand." *In re Charter Co.*, 913 F.2d 1575, 1579 (11th Cir. 1990).

22. The United States has a "significantly better than negligible" chance of succeeding on the merits of its appeal because the Bankruptcy Court did exactly what it said it could not do—adjudicate underlying contract disputes as part of a turnover action. *See Revel*, 802 F.3d at 571. The Bankruptcy Court did so by claiming it was required to determine whether a debt is "matured" to decide whether funds must be turned over. But the Bankruptcy Court overreached when determining "maturity" under section 542(b) by adjudicating fundamental government contract issues that are governed by the IDIQ Contracts. *See DHP Holdings II Corp. v. Home Depot, Inc. (In re DHP Holdings II Corp.)*, 435 B.R. 264, 271 (Bankr. D. Del. 2010) (noting a dispute over amounts due and defenses converts a turnover claim into a contract breach claim).

23. It is "settled law that the debtor cannot use the turnover provisions of [section 542] to liquidate contract disputes or otherwise demand assets whose title is in dispute." *Id.* (citing *Inslaw*, 932 F.2d at 1472); *see also Asousa P'ship v. Pinnacle Foods, Inc. (In re Asousa P'ship)*, 264 B.R. 376, 384 (Bankr. E.D. Pa. 2001) (finding that section 542(b) is available only "to obtain what is acknowledged to be property of the bankruptcy estate").

24. Put simply, a dispute as to how and when a contract counterparty's payment obligation arises is governed by the CDA, and is not a question of "maturity" under section 542 of the Bankruptcy Code. Here, the Bankruptcy Court ignored the CDA to analyze *as part of the turnover action* whether Noble is entitled to payment for the goods and services at issue under the IDIQ Contracts. The Bankruptcy Court's principal finding was that the alleged actions (or inaction) by DLA constituted constructive "acceptance" of goods delivered by Noble and triggered DLA's payment obligations. But DLA demonstrated that mere delivery of goods, without the required documentation and affirmative approvals by DLA, does not constitute acceptance under the FAR provisions incorporated in the IDIQ Contracts. As colorable legal and factual disputes exist about Noble's entitlement to payment, the Bankruptcy Court's decision to adjudicate these disputed issues as a function of a section 542(b) turnover action is reversible error. *See DHP Holdings II Corp.*, 435 B.R. at 271.

25. The Bankruptcy Court's determination that the United States had constructively "accepted" delivery of the goods at issue was not the only determination of a disputed contract issue. The Bankruptcy Court expended considerable energy adjudicating what DLA's termination notices allow, and whether Noble's non-conforming proofs of delivery created a genuine dispute. Op. 35–40. Perhaps subconsciously acknowledging it had moved well beyond what a

turnover action should involve, the Bankruptcy Court noted at the hearing, "I don't want to be an expert in the way the FAR works. There is a good reason why Congress created the Court of Federal Claims but I feel like here I am." Tr. 149:18–150:6.

26. The Bankruptcy Court's analysis does more than dramatically overextend the scope of turnover actions; it vitiates the limits on the waiver of sovereign immunity in the Tucker Act. Through the Tucker Act, Congress specifically determined that the United States waives sovereign immunity as to contract claims in excess of $10,000 *only* to permit those claims in the Court of Federal Claims. As the Bankruptcy Court itself recognized, this limitation is jurisdictional, depriving other courts of subject matter jurisdiction over contract disputes like those brought here. But by adjudicating contract disputes over performance between DLA and Noble to determine the "maturity" of DLA's contractual obligations, the Bankruptcy Court rendered the Tucker Act's limited waiver of sovereign immunity a nullity. Allowing such a result would permit future debtors to bypass Congress's mandate that the Court of Federal Claims determine contract claims against the United States through turnover actions. Neither the Bankruptcy Code nor the Tucker Act suggests that section 542(b) may be used to adjudicate disguised breach of contract claims.

27. Beyond exceeding its authority in ordering turnover for a performance dispute under government procurement contracts, the Bankruptcy Court

misinterpreted key provisions of the FAR for acceptance of goods in government contracting. In erroneously concluding that DLA had accepted Noble deliveries triggering an obligation to pay, the Bankruptcy Court ignored that acceptance has a distinct meaning in government contracting.

28. Acceptance is governed by the IDIQ Contracts and the FAR provisions explicitly incorporated by those contracts. But the Bankruptcy Court did not address *those* FAR provisions, including § 52.212-4. Section 52.212-4 explicitly provides payment only becomes due "for items *accepted* by the Government that have been delivered to the delivery destinations set forth in this contract." FAR § 52.212-4(i) (emphasis added). Title to any items delivered passes to the United States only "upon acceptance, regardless of when or where the Government takes physical possession'" FAR § 52.212-4(n). Read together, these subsections of FAR § 52.212-4 mandate that mere delivery of goods does not establish acceptance. Here, there is no dispute that DLA did not accept the goods and services at issue.[8] Any failure by

[8] The parties agree that there are five steps that must take place before DLA's acceptance and obligation to make payment arises: (1) goods are delivered; (2) Noble provides DLA with the required proof of delivery; (3) DLA validates the delivery, and posts a goods receipt, authorizing Noble to upload an invoice; (4) Noble uploads the invoice; and (5) the invoice is processed and DLA initiates payment. *See, e.g.*, Adv. D.I. 1; Cuorato Decl. ¶¶ 4-5. As Noble admits, it has not submitted to DLA any invoices for the goods at issue. Albergotti Decl. ¶ 17. Consequently, DLA's payment obligation has not yet been triggered.

DLA to reject delivered goods may not be deemed as acceptance by the United States under the IDIQ Contracts.[9] In short, the Bankruptcy Court ignored these FAR provisions and instead adopted its own rationale for determining what "acceptance" meant under the IDIQ Contracts to conclude that Noble's contract claims supposedly "matured" and became payable.

29. Contrary to the Bankruptcy Court's conclusion, acceptance here requires an affirmative act by the United States, not simply acceptance by "implication." *See* Opinion at 35-36; *M.C. & D. Cap. Corp. v. United* States, 948 F.2d 1251, 1255-56 (Fed. Cir. 1991) (finding government's right to examine and test product before accepting discounted possibility of implied acceptance). The Bankruptcy Court attempted to evade this distinction by relying upon a FAR provision (48 C.F.R. § 46.407(g)) concerning rejection of nonconforming goods. But that provision is not part of the IDIQ Contracts for nonconforming goods; instead, nonconforming goods are addressed by 48 C.F.R. § 52.212-4.

[9] At the hearing, the Bankruptcy Court focused on the passage of time since Noble's delivery of the goods at issue to support its finding that DLA must have accepted such deliveries. However, under the FAR, acceptance from the passage of time applies only "[f]or the sole purpose of computing an interest penalty." FAR § 32.904(b)(1)(ii)(B). The United States raised this narrow limitation in the FAR in its supplemental briefing, *see* Adv. D.I. 19 ¶ 52, but the Bankruptcy Court did not address this FAR provision in its Opinion.

30. The Bankruptcy Court also relied on a 1974 case, *Kohler Co. v United States*, 498 F.2d at 1360 (Ct. Cl. 1974), to support its determination that the United States could "constructively accept" goods without an affirmative act. *See id.* at 1365-67. But the *Kohler* court concluded the government had accepted goods because it had been actually *using* the goods for months. *See* Opinion at 36–37; *Kohler Co.*, 498 F.2d at 1365-67; *see also* 48 C.F.R. § 32.904(b)(1)(ii)(B)(3). The Bankruptcy Court acknowledged that *Kohler* "does not establish that delivery alone constitutes acceptance." *Id.* And no evidence was presented that the United States is using the goods delivered by Noble; the Opinion noted only that DLA "retained" the goods. Opinion at 37. *Kohler* simply does not provide a basis for a determination of "constructive acceptance" under the circumstances of this case.

31. In sum, the United States is likely to establish the Bankruptcy Court committed reversible error by creating a new contract between the parties.

II. Without a Stay, the United States Will Suffer Irreparable Harm.

32. To establish irreparable harm, a movant must show that the harm is "more apt to occur than not." *In re Revel AC, Inc.*, 802 F.3d at 569. The payment of money is irreparable harm when the money cannot be recovered. "Normally the mere payment of money is not considered irreparable, . . . but that is because money can usually be recovered from the person to whom it is paid." *Philip Morris USA Inc. v. Scott*, 561 U.S. 1301, 1304 (2010) (Scalia, J., in chambers) (citation omitted).

"If expenditures cannot be recouped, the resulting loss may be irreparable." *Id.* (staying a state-court judgment that required payment into a fund for a smoking-cessation program, because "a substantial portion of the fund . . . will be irrevocably expended" before the Supreme Court could resolve the applicants' claims).

33. DLA will suffer irreparable harm if it is required to pay Noble $8,458,217.45 while the appeal is pending. Absent a stay, the United States will have little to no chance of being reimbursed by the estate if it prevails on appeal because a claim for repayment, following a sale of Noble's assets, would stand behind the liens and superpriority claims of the Debtors' prepetition secured parties. Moreover, based on Noble's financial filings, unsecured creditors will likely not recover the full amount of their claims, if they recover anything, leaving the United States with no recourse should it be forced to turn over $8.5 million and then prevail on appeal, thus rendering this meritorious appeal moot. *See* 11 U.S.C. § 507(b); Op. 4; Bankr. D.I. 338. Because the Bankruptcy Court denied the United States' request for a reserve or other protection against potential losses, *see* Op. 3; Tr. 50:18–21, a stay is necessary to prevent irreparable harm to DLA that is "more apt to occur than not" if DLA must pay Noble before this Court decides the appeal. *See In re Los Angeles Dodgers LLC*, 465 B.R. 18, 36 (D. Del. 2011) (noting the irreparable harm requirement is satisfied where denial of a stay pending appeal risks mooting the appeal).

III. The Balance of Harms Weighs in the United States' Favor.

34. If a movant makes showings for the first two critical factors (likelihood of success on the merits and irreparable harm), the court will "balance the relative harms considering all four factors using a 'sliding scale' approach." *In re Revel AC, Inc.*, 802 F.3d at 571 (citation omitted). Here, even without the sliding scale approach, a stay is warranted because a stay will not harm Noble. If the Turnover Order is affirmed, Noble will be paid. Thus, any purported harm suffered by Noble through a brief delay in payment is only temporary. The harm to the United States without a stay, however, is permanent because the United States cannot be made whole by the bankruptcy estate.

35. Further, a debtor's financing needs does not become the United States' responsibility to pay money that the appeal may show is not owed. The Bankruptcy Court recognized that "this is a tight case where cash flows have to move," but it said that it was "not going to tilt [its] decision one way or the other for that reason." Tr. 152:1–3. The same principle applies to a stay. This factor, though not as critical as the first two, tilts in favor of the Court issuing a stay pending appeal.

IV. The Public Interest Is Served by the Issuance of a Stay Pending Appeal.

36. The final factor, the public interest, weighs strongly in favor of this Court issuing a stay pending appeal. A stay protects against the payment of taxpayer dollars to Noble that are not owed and are unlikely to be recovered if the United

States ultimately prevails. The public interest also lies in ensuring that government contract terms are faithfully applied, "acceptance" is not misconstrued to the detriment of the United States' defense agencies, and the limited waiver of sovereign immunity under the Tucker Act is not abused.

V. The Court Should Stay the Turnover Order Temporarily While It Decides This Motion.

37. Noble consents to an administrative stay through November 16 while the Court decides the Motion.

38. A temporary administrative stay would preserve the status quo and "buys the court time to deliberate," but "should last no longer than necessary to make an intelligent decision on the motion for a stay pending appeal." *United States v. Texas*, 144 S. Ct. 797, 798–99 (2024) (Barrett, J., concurring in denial of applications to vacate stay). That relief is needed here and is not opposed. The United States therefore asks the Court to enter Proposed Order A promptly.

STATEMENT UNDER BANKRUPTCY RULE 8013(d)

39. This Motion is an emergency motion. The Declaration of Ryan W. Lamb (Ex. 3) describes the emergency and states when and how counsel for Noble was notified of this Motion. Fed. R. Bankr. P. 8013(d)(2)(A), (d)(3). The United States is serving this Motion as Bankruptcy Rule 8011 prescribes. Fed. R. Bankr. P.

8013(d)(2)(D). Counsel's contact information, as required by Fed. R. Bankr. P. 8013(d)(2)(C), is as follows:

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40. Each merits ground in this Motion (immunity, lack of jurisdiction, and unwarranted turnover of disputed, immature claims) was submitted to the Bankruptcy Court. Adv. D.I. 19 Parts I–II, ¶¶ 50–54; Adv. D.I. 42 at 3–4. *See* Fed. R. Bankr. P. 8013(d)(2)(B). The United States raised a stay at the hearing, and the Bankruptcy Court granted a five-day administrative stay for the United States to seek a stay pending appeal. Tr. 163:2–164:3. The only new evidence submitted is Noble's

representation that it has sufficient liquidity through November 16. Thus, a remand is not warranted.

WHEREFORE, the United States respectfully requests that the Court (a) enter Proposed Order A, temporarily staying the Turnover Order until the Court rules on this Motion and setting a deadline for Noble's response; (b) enter Proposed Order B, staying the Turnover Order pending resolution of this appeal without a bond; and (c) grant such other relief as is just.

Dated: November 6, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This Motion complies with the word limit of Fed. R. Bankr. P. 8013(f)(3)(A) because, excluding the parts of the document exempted by Fed. R. Bankr. P. 8015(g) and the accompanying documents under Fed. R. Bankr. P. 8013(a)(2)(C), this Motion contains 5,052 words.

This Motion complies with the typeface requirements of Fed. R. Bankr. P. 8015(a)(5) and the type-style requirements of Fed. R. Bankr. P. 8015(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft 365 in 14-point Times New Roman.

Dated: November 6, 2026

/s/ Louisa A. Soulard
Louisa A. Soulard
Trial Attorney
U.S. Department of Justice
Civil Division
Commercial Litigation Branch
Corporate/Financial Litigation Section
P.O. Box 875
Washington, DC 20044

Attorney for the United States

STATEMENT UNDER LOCAL RULE 7.1.1

Counsel for the United States avers that a reasonable effort has been made to reach agreement with Noble on the matters set forth in this Motion. On November 5, 2026, at 2:43 p.m. (ET), counsel for the United States emailed counsel for Noble at Cole Schotz P.C. about the relief requested in this Motion. Following additional communications between the parties, G. David Dean, Delaware counsel for Noble, consented in an email at 9:54 a.m. on November 6, 2026, to the inclusion of the following language regarding Noble's position:

"[O]ur position is that, subject to an order entered by the District Court, we do not object to an administrative stay of the Bankruptcy Court's order through the earlier of November 16th or a decision by the District Court on the motion for stay, with a response deadline of Tuesday at 5pm. We would defer to the Court on your reply deadline, if any. We do not object to a decision to the motion on the papers, which in our experience is more typical, but would be available for a hearing if the Court deems it useful in reaching its decision. If the Court is inclined to enter a stay beyond November 16, we would request an opportunity to submit a declaration detailing the harm the Debtors would suffer if the stay extends beyond November 16. The Debtors would be prepared to file such a declaration promptly after being so directed by the District Court."

In sum, Noble proposes:

(1) any administrative stay that is granted does not extend beyond the earlier of (i) November 16 or (ii) the date the Court decides the motion for stay, if decided before November 16 as requested by the United States (if the United States believes that a stay beyond any decision by the Court denying the motion is proper, Noble submits that such request should be addressed in the motion itself and ruled upon as part of the decision on the motion);
(2) Noble will file a response to the motion by 5 p.m. (ET) on November 10;
(3) Noble defers to the Court on whether the United States should be permitted to file a reply given the expedited nature of its request, and if so, when it would be due;
(4) Noble has no objection to the motion being decided on the papers but would be available for a hearing prior to November 16 (except November 12) if helpful to the Court in deciding the motion; and

(5) the Court would decide the Motion no later than November 16.

The United States proposes:

(1) an administrative stay while the Court decides the motion for a stay pending appeal;
(2) Noble will file a response by 12 p.m. (ET) on November 9;
(3) the United States will file a reply by 9 a.m. (ET) on November 10;
(4) the United States will defer to the Court on whether argument would be helpful; and
(5) the Court will decide the Motion by November 10 (so the United States may seek relief from the Third Circuit, if needed, before November 16, 2026).

The United States is represented by attorneys of the Department of Justice appearing under Local Rule 83.5(f) and has no Delaware counsel.

Dated: November 6, 2026

/s/ Louisa A. Soulard
Louisa A. Soulard
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Attorney for the United States

CERTIFICATE OF SERVICE

I certify that on November 6, 2026, I caused a copy of the Emergency Motion of the United States for a Stay Pending Appeal and a Temporary Administrative Stay, with its exhibits and proposed orders, to be served through the Court's CM/ECF system on all parties registered to receive electronic notice in this appeal, and by email on counsel for Noble at the email addresses listed in the Motion under "Counsel for Noble (Appellee)."

Dated: November 6, 2026

/s/ Louisa A. Soulard
Louisa A. Soulard
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Attorney for the United States

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,[1] Debtors.	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
DEFENSE LOGISTICS AGENCY, Appellant, v. NOBLE SUPPLY & LOGISTICS, LLC, Appellee.	C.A. No. 26-1433 (UNA) Adv. Proc. No. 26-50885 (CTG)

INDEX OF EXHIBITS TO THE EMERGENCY MOTION OF THE UNITED STATES FOR A STAY PENDING APPEAL AND A TEMPORARY ADMINISTRATIVE STAY

Exhibit 1 — Turnover Order [Adv. D.I. 50] and Memorandum Opinion [Adv. D.I. 43] (Fed. R. Bankr. P. 8013(a)(2)(C)(iii))

Exhibit 2 — The Bankruptcy Court's administrative stay: Transcript of Oct. 28, 2026 Hearing [Bankr. D.I. 428] (cover and pp. 162–164) (Fed. R. Bankr. P. 8007(b)(2)(A))

Exhibit 3 — Declaration of Ryan W. Lamb (Fed. R. Bankr. P. 8013(d)(2)(A), (d)(3))

Exhibit 4 — Record excerpts (index below) (Fed. R. Bankr. P. 8007(b)(3)(C))

- 4-A — Complaint, Adv. D.I. 1 at 1, 9–11, 13 (¶¶ 29, 38, 44, 55)
- 4-B — Noble's Motion for Partial Summary Judgment, Adv. D.I. 3, and Supporting Brief, Adv. D.I. 4 at 1, 6–7, 14, 25

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

4-C Declaration of Robert Albergotti, Adv. D.I. 5 at 1, 6–7 (¶ 17), and its Exhibit A-1 (Contract SPE8EJ-21-D-0022, with FAR 52.212-4), Adv. D.I. 5-1 at 1–2, 10–13

4-D United States' Motion to Dismiss, Adv. D.I. 17 at 1–5

4-E United States' Brief, Adv. D.I. 19 at 1–3, 17–26, 31–33, 35–37 (cover, table of contents, Parts I and II, ¶¶ 50–54 of Part V, and Part VII)

4-F Declaration of John S. Cuorato, Jr., Adv. D.I. 19-2 at 1, 3–6, 9–14 (¶¶ 8–17, signature page, and Schedule 1)

4-G United States' Cross-Motion for Summary Judgment, Adv. D.I. 23 at 1–6

4-H Supplemental Letters of Noble and the United States, Adv. D.I. 41, 42

4-I Transcript of Oct. 28, 2026 Hearing [Bankr. D.I. 428] (cover and pp. 50, 149–150, 152, 157)

4-J Third Interim Cash Collateral Order, Bankr. D.I. 338 at 1, 24–35 (¶ 3), and its Budget, Bankr. D.I. 338-1

4-K Monthly Operating Report of Noble Supply & Logistics, LLC for September 2026, Bankr. D.I. 369 at 1–2

4-L United States' Notice of Appeal, Adv. D.I. 48

4-M United States' Amended Notice of Appeal, Adv. D.I. 51 (without its Exhibit A, which is Exhibit 1)

4-N Order Granting the Debtors' Emergency Motion to Compel the Defense Logistics Agency to Perform Under Executory Contracts (the "September Order"), entered Sept. 18, 2026, Bankr. D.I. 151

EXHIBIT 1

Turnover Order [Adv. D.I. 50] and Memorandum Opinion [Adv. D.I. 43]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-50885 (CTG) **Re: Docket Nos. 3, 17, 23, 43 & 47**

ORDER (I) GRANTING IN PART AND DENYING IN PART MOTION OF NOBLE SUPPLY & LOGISTICS, LLC FOR PARTIAL SUMMARY JUDGMENT, (II) GRANTING IN PART AND DENYING IN PART THE UNITED STATES' MOTION TO DISMISS, AND (III) DENYING THE UNITED STATES' CROSS-MOTION FOR SUMMARY JUDGMENT

This matter having come before this Court on the (i) *Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment* [Adv. D.I. 3] (the "Summary Judgment Motion"), (ii) *United States' Motion to Dismiss the Complaint* [Adv. D.I. 17] (the "Motion to Dismiss"), and (iii) *United States' Cross-Motion for Summary Judgment* [Adv. D.I. 23] (the "Cross-Motion" and, together

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

with the Summary Judgment Motion and the Motion to Dismiss, the "Motions");[2] and this Court having reviewed (a) the Summary Judgment Motion, (b) Noble's Brief in support thereof [Adv. D.I. 4], (c) the Albergotti Declaration and all exhibits attached thereto [Adv. D.I. 5], (d) the Motion to Dismiss, (e) the Cross-Motion, (f) the United States' Brief in opposition to the Summary Judgment Motion and in support of the Motion to Dismiss and Cross-Motion, the Cuorato Declaration submitted in support thereof, and all exhibits attached thereto [Adv. D.I. 19], (g) Noble's Reply Brief in further support of the Summary Judgment Motion and in opposition to the Motion to Dismiss and Cross-Motion [Adv. D.I. 35], (h) the supplemental Albergotti Declaration submitted in support of the Summary Judgment Motion [Adv. D.I. 36], (i) Noble's post-hearing Brief [Adv. D.I. 41], and (j) the United States' post-hearing brief [Adv. D.I. 42]; and this Court having heard oral argument regarding the Motions at a hearing before this Court on October 28, 2026; and this Court having issued an opinion in connection with the Motions [Adv. D.I. 43] (the "Opinion") on November 2, 2026, which Opinion the Court may amend, for clarity, consistent with Local Rule 8003-2; and this Court having found that notice of the Motions and opportunity for a hearing on the Motions were appropriate under the circumstances and no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The reasons stated in the Opinion are incorporated into this Order by reference.

2. The Summary Judgment Motion is **GRANTED** in part and **DENIED** in part as set forth herein and in the Opinion.

3. The Motion to Dismiss is **GRANTED** as to Count II of the Complaint, without prejudice and **GRANTED**, in part, as to Count I with regards to Lines 48, 79, 82–84, and 91–93, which are dismissed without prejudice, and otherwise **DENIED**.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

4. The Cross-Motion is **DENIED**.

5. Summary judgment is granted in favor of Noble and against the DLA on Count I of the Complaint in the amount of $8,458,217.45 for Lines 1–6, 8–47, 49–53, 55–59, 63–78, 80–81, 85–90, and 94–108, as numbered in Exhibit A to the Opinion.[3] Count I is hereby dismissed without prejudice as to all other Accepted Delivery Orders (as defined in the Complaint), which resolves Count I in its entirety.

6. Unless this Order is earlier stayed or reversed, the DLA is hereby ordered to remit payment to Noble in the amount of $8,458,217.45 on or before November 9, 2026.

7. Nothing in this Order limits any party's right to appeal this Order or to seek a stay of this Order pending appeal.

8. This Order is intended to constitute a final appealable order within the meaning of 28 U.S.C.§158(a)(1), as this Order fully resolves all claims in this Adversary Proceeding.

9. To the extent permitted by law, the Court shall retain jurisdiction to interpret and enforce this Order.

Dated: November 6th, 2026
Wilmington, Delaware

CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

[3] The $8,458,217.45 judgment amount is calculated based on the "Total amount subject to turnover" referenced in Exhibit A of the Opinion in the amount of 8,493,160.09, *less* (a) $33,658.34 representing the sum total of Lines 7, 54, and 60–62, which have already been paid and (b) $1,284.30 representing the adjustment to Line 10 as discussed in footnote 4 of Exhibit B of the Opinion.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.	Chapter 11 Case No. 26-11369 (CTG) **Related Docket Nos. 325, 327**
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-50885 (CTG) **Related Docket Nos. 3, 17, 23**

MEMORANDUM OPINION

Consider a circumstance in which Party A believes that it holds a claim against Party B worth as much as $1 billion. Party B, meanwhile, has delivered $15 million in goods to Party A, and payment is due. As a practical matter, Party A might refuse payment and sue on its larger claim, leaving Party B to counterclaim for the price of the goods. Once the parties' obligations were established and liquidated, setoff might permit payment of only the net balance. But the prospect of an eventual setoff does not itself establish a present right to withhold payment.

The Supreme Court described setoff in 1913 as the right "which one party has against another to use his claim in full or partial satisfaction of what he owes to the

other."[1] That mechanism avoids "the absurdity of making A pay B when B owes A."[2] Section 553 of the Bankruptcy Code generally preserves qualifying nonbankruptcy setoff rights.[3]

This case presents that problem in concrete terms. The United States asserts substantial claims against Noble arising from alleged bid rigging and other alleged misconduct.[4] The Government anticipates that its claims may exceed $1 billion. Noble, in turn, seeks payment of approximately $14.6 million for goods and services it says it provided to the Defense Logistics Agency.[5] Noble is pursuing a sale of substantially all its assets, and the sale proceeds may leave little or nothing for unsecured creditors. The Government's concern that payment will impair its ability to recover on its claims is therefore understandable.

That concern does not, however, establish the legal entitlement the Government asserts. Under the ordinary common-law rule, the Government's disputed and unliquidated damages claims do not provide a present right of setoff. Although language in *United States v. Munsey Trust Co.* might support an argument for broader Government authority, the Government has not advanced that argument and the Court does not decide it.[6] On the arguments and record presented, the

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[1] *Studley v. Boylston Nat'l Bank of Boston*, 229 U.S. 523, 528 (1913).

[2] *Id.*

[3] *Citizens Bank of Md. v. Strumpf*, 516 U.S. 16, 18 (1995).

[4] Debtor Noble Supply & Logistics, LLC is referred to as the "debtor" or as "Noble."

[5] The Defense Logistics Agency is referred to as the "DLA."

[6] 332 U.S. 234 (1947).

Government has not established an interest entitled to adequate protection. The particular relief it requests—an allowed superpriority administrative claim and priority over existing secured creditors—would also be unavailable for independent reasons.

The absence of an established setoff right does not mean that every amount Noble seeks is subject to turnover. Section 542(b) of the Bankruptcy Code requires payment of qualifying matured debts; it does not provide a means to adjudicate an underlying contract dispute. Section 106(a) expressly waives sovereign immunity for a proper turnover action. But the Court concludes that the Tucker Act does not waive immunity for Noble's separate breach-of-contract action in this forum.

Applying those principles to the existing summary-judgment record, the Court concludes that Noble has established matured payment obligations totaling $8,493,160.09. The Government's objections to those obligations do not identify a genuine dispute concerning Noble's performance. The remaining amounts involve unresolved disputes about delivery to the contractually required destinations and are not properly recoverable through turnover. The unresolved contract claims will be dismissed without prejudice.

Part I of this Memorandum Opinion addresses the Government's request for adequate protection. Part II grants relief from the automatic stay so that the Government may exercise whatever nonbankruptcy termination rights it possesses, without adjudicating those rights. Part III addresses turnover and sovereign immunity. Part IV applies that framework to the 108 deliveries at issue.

Factual and Procedural Background

Noble was in the government contracting business. It filed these bankruptcy cases on August 31, 2026. The first-day declaration explains that the company was the fifth-largest prime vendor to the DLA.[7] The declaration also discloses that the debtor was subject to various governmental investigations.[8] In December 2024, the DLA elected not to renew one of the company's key government contracts.[9] The DLA further elected not to renew various other contracts earlier this year.[10] Following negotiations with its various lenders, the debtor filed for chapter 11 with a plan to sell its business assets.[11] This Court has granted three interim orders authorizing the debtor to use the prepetition lenders' cash collateral in order to finance the bankruptcy case.[12] The Court has also entered an order authorizing the debtors to undertake a sale process, which contemplates a sale in late November.[13]

The debtors' budget, however, contemplated that the DLA would continue to make payments, as it had in the ordinary course of business, for various goods and services the debtor had provided or would continue to provide under contracts that

[7] Main Case D.I. 15 ¶ 8.

[8] *Id.* ¶ 21.

[9] *Id.* ¶ 45.

[10] *Id.* ¶ 48.

[11] *Id.* ¶¶ 58–64.

[12] Main Case D.I. 73, 218, 338.

[13] Main Case D.I. 219.

had not been terminated. On September 11, 2026, however, the debtor filed an emergency motion to compel the DLA to perform under the parties' contracts.[14]

In opposing that motion, the Government argued that the debtor owed it up to approximately $3.2 million, and that it had imposed an administrative freeze on all payments to Noble "while the DLA evaluates amounts Noble owes or may owe to the United States for claims arising prepetition."[15]

This Court found that to be unlawful.[16] The Court explained that the Supreme Court's decision in *Strumpf* permits a creditor temporarily to refuse to pay a debt that is subject to setoff in order to permit the creditor to seek stay relief to effect a setoff. The evidentiary record before the Court, however, indicated that the most that the Government contended it was owed was approximately $3.2 million, but that it had placed an administrative freeze on nearly $7 million in payables. Moreover, the record made clear that other amounts would become due that would fully protect the right of setoff up to the full $3.2 million that the Government alleged was due. For that reason, the Court held that the Government could set off the amount that Noble agreed it owed the Government (approximately $600,000) and ordered that it pay the balance (approximately $6.4 million) to Noble.[17]

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[14] Main Case D.I. 102.

[15] Main Case D.I. 124 ¶ 22.

[16] Main Case D.I. 151.

[17] *Id.* ¶ 7.

On October 6, 2026, Noble filed the above-captioned adversary proceeding against the DLA.[18] The complaint contained two counts: the first sought turnover of amounts due for pre-termination delivery orders under § 542 of the Bankruptcy Code while the second sought, in the alternative, breach of contract damages.[19] That same day, the debtor moved for summary judgment and to shorten time to have the summary judgment motion heard no later than October 30, 2026.[20] The motion to shorten alleged that the DLA was withholding payment on more than $14.5 million in goods that had been delivered and that would have typically been paid in the ordinary course.[21] The motion further represented that without receipt of the funds alleged to be due, the "Debtors will likely exhaust their liquidity during the first week of November 2026."[22] After a hearing held the next day, the Court entered an order shortening time and providing that the motion for summary judgment would be heard on October 28, 2026.[23]

On October 13, 2026, the Government filed motions for relief from stay and for adequate protection (in the main case), both set for hearing on October 28, 2026.[24] The stay relief motion sought relief from the stay to terminate certain agreements in accordance with their terms, noting that under the rationale of the Third Circuit's

[18] D.I. 1.

[19] *Id.*

[20] D.I. 3; D.I. 6.

[21] D.I. 6 at 2.

[22] *Id.* at 7.

[23] D.I. 15.

[24] Main Case D.I. 325; Main Case D.I. 327.

decision in *West Electronics*, government contracts cannot be subject to assumption and assignment without the Government's consent.[25]

The motion for adequate protection stated that the Government had, after this Court had ruled that the administrative freeze it had imposed violated the automatic stay, obtained orders that partially lift seals in two *qui tam* actions pending against Noble in U.S. District Courts for the Districts of New Mexico and Massachusetts. The adequate protection motion asserts that the damages alleged in those actions is "no less than $266 million," and counsel represented at the October 28, 2026 hearing that the Government may seek as much as $1 billion in damages. It argued that these claims will lead to fixed, prepetition debts owed to the United States and that it therefore held rights of setoff that were entitled to adequate protection. And the Government sought superpriority status for its right of adequate protection under § 507(b) of the Bankruptcy Code and the creation of a "reserve" of the debtors' sale proceeds that would effectively give the Government priority over the debtor's secured creditors who assert that they hold liens on those proceeds.

On October 20, 2026, the Government moved to dismiss the adversary proceeding both on sovereign immunity grounds and on the merits.[26] On October 21, 2026, the Government cross-moved for summary judgment, making similar

[25] Main Case D.I. 325 at 6 (citing *In re West Elec., Inc.*, 852 F.2d 79, 83-84 (3d Cir. 1988).

[26] D.I. 17.

arguments.[27] The Government sought to shorten notice on both of its motions so that they could also be heard on October 28, 2026.[28] The Court granted that motion.[29]

At the October 28, 2026 hearing, the Court indicated that it was inclined to: (a) deny the motion for adequate protection; (b) grant the motion for relief from stay; (c) consider the claim for turnover to the extent the debtor can establish the absence of any dispute of material fact with respect to a matured debt due from the Government; and (d) dismiss the remaining claim for breach of contract on sovereign immunity grounds. The Court then proceeded to consider the merits of the summary judgment record.

The core of the dispute between the parties related to various positions taken regarding 108 deliveries allegedly made by the debtor for which the Government has withheld payment. At the conclusion of that hearing, however, the Court determined that it required supplemental briefing to sort through the 108 deliveries to determine whether, in light of the disputes raised by the Government, the debtor was entitled to turnover. And the Court made clear that the supplemental briefing was limited to clarifying and categorizing evidence already in the summary judgment record. It was not an invitation to submit evidence that had not been previously included in the existing summary judgment record. The Court directed the parties to provide those supplemental briefs by October 30, 2026, with a view towards having the Court issue

[27] D.I. 23.

[28] D.I. 20.

[29] D.I. 28.

a ruling on November 2, 2026. Both parties filed those supplemental letter briefs.[30] This Memorandum Opinion is intended to explain the Court's rulings and the reasons for the orders it will enter.

Jurisdiction

The claims for adequate protection, stay relief, and turnover are all claims that arise under the Bankruptcy Code and thus fall within the "arising under" jurisdiction provided in 28 U.S.C. § 1334(b). These claims are core matters as to which the Court may enter final judgment. The debtor's claim for breach of contract would ordinarily fall within § 1334(b)'s "related to" jurisdiction (and would not be a core proceeding). Because, however, as described below, the Court concludes that this claim is barred by federal sovereign immunity, which is a jurisdictional defense, the Court lacks subject-matter jurisdiction over that claim.

Analysis

The Government's motion for adequate protection and its motion for relief from the automatic stay are both contested matters that are typically resolved based on the evidentiary record established at the hearing. While both parties were prepared to present evidence with respect to these matters, the Court concluded, based on the briefing, that neither turned on a disputed question of fact and both were properly resolved as a matter of law.

In the adversary proceeding, the Government's motion to dismiss requires the Court to determine whether the complaint's factual allegations are sufficient to state

[30] D.I. 41 (Noble letter brief); D.I. 42 (Government letter brief).

the claims alleged. Giving effect to the Supreme Court's decisions in *Iqbal* and *Twombly*, the Third Circuit has set forth a two-step analysis for a court's consideration of a motion to dismiss.[31] *First*, the court should separate the factual and legal elements of a claim, accepting all well-pleaded facts as true while disregarding any allegations that are merely conclusory. *Second*, the court is to assess whether the facts alleged are sufficient to show a plaintiff has a plausible claim for relief.[32]

The cross-motions for summary judgment are controlled by Civil Rule 56. The entry of summary judgment is appropriate where "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law."[33] A court must draw all reasonable inferences in the light most favorable to the non-moving party but shall not make credibility determinations nor weigh the evidence.[34] The role of the court is to assess the record evidence and determine whether it would permit a reasonable finder of fact to rule in favor of the non-moving party.[35]

I. The Government has not established an entitlement to adequate protection, and the particular relief it requests is unavailable.

The Government's request for adequate protection is unsuccessful for several independent reasons. The basic doctrinal framework is that § 363(e) of the

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[31] *See Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007); *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210–211 (3d Cir. 2009).

[32] *Fowler*, 578 F.3d at 210–211.

[33] Fed. R. Civ. P. 56(a) (made applicable by Fed. R. Bankr. P. 7056).

[34] *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986); *Big Apple BMW, Inc. v. BMW of N. Am., Inc.*, 974 F.2d 1358, 1363 (3d Cir. 1992).

[35] *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586–587 (1986).

Bankruptcy Code provides that "on request of an entity that has an interest in property used, sold, or leased … by the trustee, the court … shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest."[36] Section 361, in turn, explains that when adequate protection is required under § 363, it may be provided by (1) requiring the trustee to make cash payments; (2) granting the holder of an interest in property an additional or replacement lien; or (3) "such other relief … as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property."[37]

A. A right of setoff is properly treated as an interest in property.

The starting point of the analysis is whether the Government has an interest in property of the estate. The text of the Bankruptcy Code suggests that a party holding a right of setoff in effect holds an interest in estate property. Section 506(a) provides that an "allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of the creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff."[38]

In fairness, the statutory text does admit of a contrary argument. The statutory language itself could be read to say that there are two ways a creditor can end up with an allowed secured claim: either (a) the creditor holds a lien and thus an

[36] 11 U.S.C. § 363(e).

[37] 11 U.S.C. § 361. *See also United States v. Whiting Pools, Inc.,* 462 U.S. 198, 204 (1983) ("At the secured creditor's insistence, the bankruptcy court must place such limits or conditions on the trustee's power to sell, use, or lease property as are necessary to protect the creditor.").

[38] 11 U.S.C. § 506(a).

interest in estate property or (b) the creditor has a right of setoff. On that (textually plausible) reading, § 363(e) affords adequate protection only to creditors in category (a), not those in category (b). The holder of a right of setoff, on this view, would therefore not be entitled to adequate protection at all.

But even if the words of the statute could be read this way, the Third Circuit's treatment of setoff under § 363 supports treating it as an interest in property. Specifically, the Third Circuit held in *Folger Adam* that property could be sold, under § 363(f), free and clear of a party's unexercised right of setoff.[39] The natural implication of that holding is that such a right is an interest in the property being sold. That inference is reinforced by the relationship between the two subsections: § 363(f) authorizes the sale free and clear of an interest, while § 363(e) provides protection for an interest affected by the sale.

Treating a right of setoff as an interest in property also makes sense. We know from § 506(a) that the holder of a valid right of setoff is a secured creditor. It is hard to see why § 363(e) would afford adequate protection to one category of holders of allowed secured claims but not the other.

B. The general rule is that the holder of a disputed and unliquidated claim does not have a right to setoff.

Section 553 of the Bankruptcy Code preserves parties' rights of setoff; it does not itself create them. The analysis must therefore begin with the question whether a party holds a right of setoff under applicable nonbankruptcy law. Under the general

[39] *Folger Adam Sec., Inc. v. DeMatteis/MacGregor JV*, 209 F.3d 252, 262–263 (3d Cir. 2000).

common law rule, a disputed and unliquidated claim for damages cannot be set off against a matured, liquidated debt. The Supreme Court said essentially that in *United States v. Robeson*. "[A] claim for unliquidated damages cannot be pleaded by way of a set-off, in an action between individuals; and the same rule governs in an action brought by the government."[40]

An existing debt that is matured and liquidated may be applied in satisfaction of another debt. But one cannot typically use an unresolved and disputed claim for damages to avoid paying an obligation that has matured and is otherwise due and owing. That is the common law rule in cases that involve private parties. As the Delaware Court of Chancery put it, "[a]t common law, a contingent or unmatured obligation which is not presently enforceable cannot be the subject of set-off or, put differently, there is no right to set-off of a possible unliquidated liability against a liquidated claim that is due and payable."[41] Or as the Nebraska Supreme Court explained, "[m]ost jurisdictions follow the rule that an unliquidated claim cannot be set off against a liquidated claim."[42]

That does not mean that every disagreement about a claim defeats setoff, or that a claim must have been fully liquidated on the petition date. Courts have recognized setoff rights arising from established prepetition obligations even though

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[40] *United States v. Robeson*, 34 U.S. (9 Pet.) 319, 325 (1835). *See also United States v. Buchanan*, 49 U.S. (8 How.) 83 (1850).

[41] *Post Holdings, Inc. v. NPE Seller Rep LLC*, 2018 WL 5429833, at * 6 (Del. Ch. Oct. 29, 2018) (internal quotations, citations, and brackets omitted).

[42] *Davis Erection Co. v. Jorgensen*, 534 N.W.2d 746, 751 (Neb. 1995) (collecting cases).

payment remained contingent or the amount had not yet been liquidated.[43] Here, however, the Government's claim is disputed as to liability as well as unliquidated in amount. Perhaps, at the end of the day, the Government will establish a very large False Claims Act liability. That possibility, however, does not under ordinary rules give rise to a present right of setoff.

Significantly, the Government fails even to acknowledge this general rule let alone engage with it. Rather, its principal argument is that "the United States maintains an interest in any payments for prepetition goods or services provided by the Debtors to the extent the Debtors owe mutual prepetition debts to the United States. The Debtors concede they are under multiple civil and criminal investigations, which amount to hundreds of millions of dollars in liabilities owed to the United States. Therefore, the United States is entitled to adequate protection of its setoff rights."[44] That argument, however, is simply inconsistent with the body of law described above making clear that the holder of a disputed and unliquidated claim, such as the Government's False Claims Act claim against Noble, is not entitled to setoff. Indeed, in connection with the debtor's prior motion to compel payment when the Government had imposed an administrative freeze, the Court offered to conduct an estimation under § 502(c) to determine an amount that could support the

[43] *See In re Elsinore Shore Assocs.*, 67 B.R. 926 (Bankr. D.N.J. 1986) (addressing reimbursement obligations under prepetition letters of credit that were contingent and unliquidated on the petition date).

[44] Main Case D.I. 327 at 2.

Government's asserted setoff right. The Government declined that opportunity, explaining that it was not then seeking to effect a setoff.[45]

The Government neither acknowledges the ordinary rule governing disputed and unliquidated claims nor (as discussed below) argues for a sovereign exception to that rule. Instead, it contends that it need not establish the validity or amount of its claims because it seeks only adequate protection, not to effect a setoff. That distinction, however, fails to address the threshold question whether the Government has established an interest in property entitled to protection. In this Court's prior ruling, the Court noted the Government's right to setoff because Noble acknowledged that the Government held a valid claim for at least approximately $600,000. That is not so here. And because the Government has not established such a claim here, it is not entitled to adequate protection.

C. While an argument can be made that a different rule applies to the Government as creditor, the Government has not advanced any such argument.

An argument could be made that the Government possesses authority to set off disputed and unliquidated claims notwithstanding the ordinary rule described above. Such an argument would be grounded in the Supreme Court's decision in *Munsey Trust*.[46] There, the Government applied amounts retained under

[45] *Id.* at 1–2 ("The Court also generously offered to conduct an estimation hearing for the limited purpose of determining amounts subject to setoff for the benefit of the United States if it were to seek relief from the automatic stay prior to effectuating a setoff. Such a hearing is not necessary, however, because the United States is not seeking to offset any amounts at this time.")

[46] *United States v. Munsey Tr. Co.*, 332 U.S. 234 (1947).

construction contracts against its claim for damages arising from the contractor's failure to enter into a separate contract. A surety that had paid the contractor's laborers and materialmen asserted a competing entitlement to those retained funds. The Supreme Court held that the Government could apply the funds against its independent claim notwithstanding the surety's asserted rights. Significantly, the Government's claim was neither disputed nor uncertain in amount. The Court stated that it was "undisputed that $6,731.50 is the amount of damages sustained by the government" and later described the Government's demand as an "undisputed claim for damages."[47]

Munsey nevertheless contains language suggesting broader federal authority, although the Court had no occasion to decide whether that authority extended to disputed and unliquidated claims. The Court noted that a federal statute authorized the Court of Claims to adjudicate "[a]ll set-offs, counterclaims, [and] claims for damages, whether liquidated or unliquidated," asserted by the Government against a claimant in that court.[48] It then reasoned that this "power given to the Court of Claims to strike a balance between the debts and credits of the government, by logical implication gives power to the Comptroller General to do the same, subject to review by that court."[49]

[47] *Id.* at 237, 240.

[48] *Id.* at 239.

[49] *Id.* at 240.

The reference to unliquidated claims, together with the Court's inference of corresponding administrative authority in the Comptroller General, could support an argument that the Government possesses setoff rights broader than those available under the ordinary common-law rule. Whether that reasoning extends to a claim disputed as to liability and wholly unliquidated is less clear, particularly given the undisputed claim actually before the Court in *Munsey*. The Government, however, does not advance that argument here. It cites *Munsey* in support of its common-law setoff rights and invokes the proposition that the "federal government has long possessed the right of offset at common law."[50] It does not contend that *Munsey* supplies an exception to the ordinary rule governing disputed and unliquidated claims. The Court therefore has no occasion to decide whether *Munsey* recognizes such an exception.

D. Even if the Government were entitled to adequate protection, it would not be entitled to the requested § 507(b) superpriority claim, let alone priority over secured creditors.

The Government's request for a superpriority claim under § 507(b) would be misplaced even if the Government were entitled to adequate protection. That section provides that if adequate protection has been provided under §§ 362, 363, or 364, and "notwithstanding such protection," the creditor holds a qualifying administrative claim arising from the stay, the use, sale, or lease of the property, or the grant of a

[50] Main Case D.I. 327 at 9.

lien under § 364(d), that claim "shall have priority over every other claim allowable under" § 507(a)(2).[51]

The statutory sequence matters. Section 507(b) provides a remedy when adequate protection previously provided proves inadequate. It does not authorize the Court to leapfrog the provision of adequate protection in the form contemplated by § 361 by granting an allowed superpriority claim as the protection itself. Yet that is what the Government's proposed order would do: grant an "allowed super-priority administrative claim" in an amount equal to qualifying payments by the DLA to Noble.[52] The Government has not established the prerequisites for § 507(b) relief: a failure of previously provided adequate protection and a qualifying administrative claim. It instead seeks an allowed superpriority claim as a means of providing adequate protection for its asserted setoff rights as the DLA makes payments. That request does not satisfy § 507(b)'s requirements.

Moreover, even a properly established § 507(b) claim would not provide the priority the Government seeks over secured creditors. Section 507(b) grants priority over other administrative claims allowable under § 507(a)(2); it does not grant a lien or subordinate existing liens. The Government's proposed order would require the debtor to place the proceeds of its asset sale into a reserve pending liquidation of the asserted superpriority claim. Establishing a reserve would not itself alter the creditors' relative priorities. To the extent the Government seeks payment from those

[51] 11 U.S.C. § 507(b).

[52] Main Case D.I. 371-1 at 2.

proceeds ahead of creditors holding valid liens on them, § 507(b) supplies no authority for that relief. The Government identifies no other authority and acknowledged at argument that it had none. Its request will accordingly be denied.

II. The United States is entitled to relief from the automatic stay to exercise its nonbankruptcy rights.

The Government is on stronger footing regarding its motion for relief from the automatic stay to exercise its rights under the parties' various agreements.[53] The debtors do not dispute that they cannot assume or assign the contracts at issue without the Government's consent, which they recognize will not be forthcoming.[54] That is itself sufficient cause under § 362(d)(1) to lift the stay to permit termination (to the extent permitted by the agreements). Indeed, the debtors' opposition to stay relief is quite narrow, arguing only that they have already completed performance by delivering all of the goods with respect to certain of the orders that the Government now seeks to terminate.[55] Where there is nothing left to terminate, the debtors argue, the Government should not be granted stay relief to send termination letters.

But as the Government points out in its reply, an order granting relief from the stay would merely authorize the Government to exercise its nonbankruptcy rights, whatever those rights may be. It does not adjudicate the metes and bounds of those rights.[56] The debtors' rights to argue that certain orders have been fully

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[53] Main Case D.I. 325.

[54] *See generally* 11 U.S.C. § 365(c); *West Elec.*, 852 F.2d at 83–84.

[55] Main Case D.I. 363 at 2.

[56] Main Case D.I. 392 at 2.

performed, such that there is nothing left to terminate, are therefore preserved. With that understanding, the Court will grant the motion for relief from the automatic stay.

III. The debtor is entitled to turnover of amounts that it can show, as a matter of law, have matured and are due and owing; sovereign immunity otherwise precludes this Court from entertaining the debtor's claim for breach of contract.

As an initial matter, it is settled law that "sovereign immunity is jurisdictional in nature and deprives courts of the power to hear suits against the United States absent Congress's express consent."[57] Accordingly, Noble's action against the DLA must be dismissed for lack of jurisdiction unless Noble can point to a federal statute in which Congress waives federal sovereign immunity and consents to being sued. Noble points to two such statutes, § 106(a) of the Bankruptcy Code with respect to its turnover count and the Tucker Act with respect to its breach of contract claim. As described below, the debtor is right that § 106(a) provides a waiver applicable to its turnover count. But this Court concludes that the Tucker Act waiver does not extend to permit the Government to be sued in bankruptcy court on a claim for breach of contract.

A. Because § 106(a) waives sovereign immunity for claims of turnover, the debtor may seek turnover against the Government.

Section 542(b) of the Bankruptcy Code provides that "an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable

[57] *United States v. Miller*, 604 U.S. 518, 527 (2025) (internal quotations omitted).

on order, shall pay such debt to, or on the order of, the trustee, except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor."[58] In addition, § 106(a)(1) contains an express waiver of sovereign immunity for claims arising under § 542 of the Bankruptcy Code.

In light of this clear statutory language, if the debtor establishes that amounts due to it from the Government are within the scope of § 542(b), then the Government "shall pay such debt to … the trustee" unless it is subject to setoff. And as described in Part I of this Memorandum Opinion, the Government has not established a right of setoff against the amounts at issue here.

The Government argues that "Section 106 of the Bankruptcy Code provides no waiver because it does not reach contract claims, however labeled."[59] That argument, however, fails to distinguish between enforcing a matured contractual debt through turnover (which § 542(b) expressly authorizes) and adjudicating an underlying claim for breach of contract (which is not permitted).

As described below, the Court agrees that the debtor cannot litigate an ordinary breach-of-contract claim against the Government in this Court merely by labeling it turnover. But the contractual origin of a payment obligation does not exclude that obligation from § 542(b). Section 542(b)'s reference to debts that are "matured, payable on demand, or payable on order" readily encompasses contractual payment obligations, including obligations under promissory notes.

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[58] 11 U.S.C. § 542(b).

[59] D.I. 19 at 2.

Section 106(a)(1) expressly waives sovereign immunity with respect to § 542. The relevant question is therefore whether the debtor has established a claim under § 542(b), not whether the debt originated in a contract. The waiver does not dispense with any requirement of turnover or create a general right to litigate contract claims against the Government. But where the requirements for turnover under § 542(b) are satisfied, the contractual source of the debt does not defeat the express waiver.

B. Noble must establish its entitlement to turnover under § 542(b), rather than merely assert a disputed claim for breach of contract.

Section 542(b) requires payment of a debt that is property of the estate and is "matured, payable on demand, or payable on order," subject to the statutory exception for setoff.[60] The availability of turnover therefore depends on satisfaction of those requirements, not merely on the debtor's characterization of its action. A contractual obligation may satisfy the statute. But the fact that the estate owns a cause of action for breach of contract does not itself establish that the defendant owes a debt presently subject to turnover. Indeed, the Third Circuit has made plain that a "garden variety contract claim" cannot be converted to a "core proceeding" simply by calling it a turnover action.[61]

Courts accordingly distinguish the enforcement of a payment obligation properly subject to turnover from the adjudication of an underlying contract dispute. As the Eleventh Circuit explained, "[t]urnover proceedings are not to be used to

[60] 11 U.S.C. § 542(b).

[61] *See Beard v. Braunstein*, 914 F.2d 434, 444 (3d Cir. 1990).

liquidate disputed contract claims."[62] The D.C. Circuit likewise recognized that a debtor "cannot use the turnover provisions to liquidate contract disputes or otherwise demand assets whose title is in dispute."[63]

The relevant distinction is thus not between contractual and noncontractual obligations, but between a debt satisfying § 542(b) and an unresolved contract claim that the debtor seeks to establish through litigation. Section 106(a)'s waiver permits the Court to enforce the former against the Government; it does not transform the latter into a claim arising under § 542. Noble must therefore establish the statutory predicates for turnover. It cannot obtain the benefit of the turnover waiver merely by attaching that label to its breach-of-contract claim.

That much is perhaps simple enough to articulate and is common ground between the parties. The harder issue is distinguishing a genuine turnover claim, notwithstanding the obligor's objection to payment, from an underlying contract dispute that cannot be adjudicated through turnover. The Court starts with the premise that it cannot be the case that turnover is unavailable whenever the party against which turnover is sought stands up and says "I dispute the debtor's claim" or "I contend that the debt is unmatured." For the turnover statute to have any teeth at all, it must imply that the Court has some means by which it examines the alleged "dispute" and makes a decision whether it is the kind of dispute that renders turnover unavailable. But neither the parties' briefs nor this Court's own research has turned

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[62] *In re Charter Co.*, 913 F.2d 1575, 1579 (11th Cir. 1990).

[63] *United States v. Inslaw, Inc.*, 932 F.2d 1467, 1472 (D.C. Cir. 1991). *See also In re DHP Holdings II Corp.*, 435 B.R. 264, 271 (Bankr. D. Del. 2010) (Walrath, J.).

up much authority that identifies a standard that a court should apply in making that assessment.

During the October 28, 2026 argument, the Court asked the parties about their position on this question. The Court posited that one approach could be to ask whether the factual record in support of the elements of turnover is established in a way that would support the entry of summary judgment for the debtor. The summary-judgment standard provides a familiar means of distinguishing an unsupported objection from a genuine factual dispute requiring adjudication. Its inquiry—whether "there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law"—also fits the distinction drawn in *Inslaw* and *Charter* between enforcing an established payment obligation and liquidating a disputed contract claim.[64]

In response to the Court's questions during the October 28 argument, neither party identified authority prescribing a different standard or objected to the Court's proposed approach. The Court will accordingly use the summary-judgment standard in this case to test whether the Government's asserted disputes prevent Noble from establishing a matured payment obligation under § 542(b). Where the record establishes the statutory elements as a matter of law, the Government's characterization of the obligation as disputed does not defeat turnover. Where resolution instead requires adjudication of an underlying dispute over contractual

[64] *See Nebraska v. Wyoming*, 507 U.S. 584, 590 (1993) ("Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.").

performance, the authorities discussed above preclude using turnover as a substitute for that contract litigation. The Court need not and does not decide whether the same approach supplies the appropriate boundary in every turnover proceeding.

C. To the extent the debtor holds a disputed claim for breach of contract, federal sovereign immunity bars this Court from hearing the claim.

For the reasons described in Part III.B, the Court will (in Part IV) apply the summary judgment standard to determine which (if any) of the amounts that Noble claims are due satisfy the standard of § 542(b) and are thus subject to turnover. That leaves the question of how to address those amounts that are the subject of a genuine dispute. Noble's position is that this Court has related-to jurisdiction over such claims and that it may adjudicate them. In support of that position, Noble points to the Federal Circuit's decision in *Quality Tooling*, which suggests that the waiver of federal sovereign immunity contained in the Tucker Act is sufficient to permit the United States to be sued on a breach of contract action in bankruptcy court.[65]

Although language in *Quality Tooling* supports Noble's position, this Court finds the Ninth Circuit's contrary construction of the Tucker Act to be more consonant with the statutory language. The Ninth Circuit authority also better accords with the Supreme Court's instruction, emphasized in recent decisions, that ambiguities concerning the scope of a sovereign-immunity waiver must be resolved in favor of the Government.

[65] *Quality Tooling, Inc. v. United States*, 47 F.3d 1569 (Fed. Cir. 1995).

In the Tucker Act, the United States waives its sovereign immunity and consents to being sued on breach of contract and other actions. The statute provides:

> The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.[66]

That is, without question, an express waiver of sovereign immunity for suit "upon any express or implied contract." But the waiver applies by its terms to actions brought in the Court of Federal Claims, which is granted subject-matter jurisdiction over such actions.

Quality Tooling reads that statutory language quite expansively. There, the Army terminated a government contract with Quality Tooling, which then filed for bankruptcy while its contract action was pending in the Court of Federal Claims. Following transfer of the bankruptcy case to the Northern District of Alabama, the contract action was removed to the district court sitting in bankruptcy.[67] The Government moved to have the case transferred back to the Court of Federal Claims, which it contended is the only court with jurisdiction over the action. But the district court denied the motion. The Government appealed to the Federal Circuit, which by statute has jurisdiction over all interlocutory appeals from the grant or denial of a motion to transfer a case from a district court to the Court of Federal Claims.[68]

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[66] 28 U.S.C. § 1491(a)(1).

[67] *Quality Tooling*, 47 F.3d at 1571.

[68] *See* 28 U.S.C. § 1292(d)(4).

The Federal Circuit, however, rejected the Government's argument. That court found that the broad grant of subject-matter jurisdiction in § 1334(b) reflected a congressional intent "to give the district court sitting in bankruptcy plenary authority over the bankrupt's estate and all claims by or against it."[69] The court went on to conclude that "[t]he Bankruptcy Act is thus a codification of the comprehensive authority possessed by bankruptcy courts over bankrupt estates, and on its face includes the disputed contract rights at issue here."[70]

The notion that a claim by the debtor-in-possession against a contractual counterparty on a prepetition claim for breach of contract would fall within the "related-to" jurisdiction of § 1334(b) would not normally be a controversial one. Such a claim has an effect on the bankruptcy estate and thus falls within the court's jurisdiction.[71]

That conclusion by itself, however, would not appear to address the question whether the breach of contract action, when asserted against the United States, is barred by federal sovereign immunity. On that question, the Government took the position that the Tucker Act waiver of sovereign immunity applied only in the Court of Federal Claims. "The Government argues that the Tucker Act waiver of sovereign immunity is limited to its jurisdictional terms: the Government has consented to be sued on a contractual matter *only* in the Court of Federal Claims. That the

[69] *Quality Tooling*, 47 F.3d at 1573.

[70] *Id.*

[71] *See Pacor, Inc. v. Higgins,* 743 F.2d 984, 994 (3d Cir. 1984).

Government has waived its immunity in the Court of Federal Claims does not imply that the Government has waived its immunity in other courts."[72]

Quality Tooling, however, suggests otherwise, holding that the waiver of sovereign immunity in the Tucker Act is not specific to the suits filed in the Court of Federal Claims. "The question is the narrow one of whether Congress, having granted Quality the right to sue the United States on this claim, and having in other legislation granted to two federal courts jurisdiction over such claims, intended the right to sue to be applicable in both federal courts which have jurisdiction."[73] The Federal Circuit answered that question affirmatively, finding no indication that Congress intended the waiver to apply exclusively in the Court of Federal Claims. In its view, there was not "anything in the governing legislation to suggest that we are to read Congress' intention as preferring the one court to the exclusion of the other in adjudicating this claim."[74]

The Ninth Circuit has rejected that analysis. In *McGuire v. United States*, that court, after describing the reasoning of *Quality Tooling*, concluded that it "cannot agree that the Tucker Act generally waives sovereign immunity for suits outside the Court of Federal Claims."[75] Rather, relying on the language of the Tucker Act and

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[72] *Quality Tooling*, 47 F.3d at 1574.

[73] *Id.* at 1577.

[74] *Id.* While the court found that the Tucker Act's sovereign immunity waiver did not bar the suit from proceeding in district court, it vacated the order denying the motion to transfer to the Court of Federal Claims, holding that the court should consider whether that court's specialized expertise in government contract disputes provided a reason to transfer the case as a prudential matter. *Id.* at 1578–1579.

[75] *McGuire v. United States*, 550 F.3d 903, 912 (9th Cir. 2008).

the negative inference it drew from the more focused waiver of sovereign immunity in bankruptcy under § 106(a) of the Bankruptcy Code, it held that the suit against the United States should be transferred to the Court of Federal Claims.

While this Court is reluctant to disagree with the Federal Circuit on a question of the meaning of the Tucker Act, a question on which that Court has substantial expertise, the Court finds *McGuire*'s construction of the Tucker Act more persuasive. That construction follows the statutory language and accords with the Supreme Court's repeated instruction—most recently reiterated in *Miller*—that ambiguities concerning the scope of a sovereign-immunity waiver must be resolved in favor of the Government.

The question in *Miller* was whether § 106(a), which contains an express waiver of sovereign immunity for § 544 claims, allowed a chapter 7 trustee to bring suit against the Government to recover taxes that a corporate debtor paid for the benefit of its principals.

Section 544(b) permits a trustee to avoid a transfer that an actual unsecured creditor could avoid under applicable nonbankruptcy law. *Miller* held that § 106(a)'s waiver for the federal § 544(b) action did not also waive immunity for the underlying state-law claim necessary to satisfy that provision. The trustee therefore could not use the bankruptcy waiver to eliminate the sovereign-immunity defense that would have defeated the actual creditor's action outside bankruptcy.

In reaching that conclusion, the Supreme Court emphasized that any ambiguity in the reading of the applicable statutory text needed to be resolved against

a finding of waiver of sovereign immunity. Even "if the language and logic of § 544 and § 106(a) permitted respondent's broad reading of the sovereign-immunity waiver, we note further that our precedents would still foreclose that reading."[76] That is so because a court "must construe any ambiguities in the scope of a waiver in favor of the sovereign."[77]

That statement tilts strongly in favor of the reasoning of *McGuire* and against that of *Quality Tooling*. Indeed, *McGuire* relied heavily on the principle that "the Government's consent to be sued must be construed strictly in favor of the sovereign, and not enlarged … beyond what the language requires."[78] Here, the Bankruptcy Code expressly waives sovereign immunity for claims under certain provisions of the Code. It does not contain a general waiver for claims arising under a contract. Rather, § 106(b) contains a waiver for counterclaims arising out of the same transaction or occurrence when the Government files a proof of claim, and § 106(c) contains a waiver that permits the exercise of setoff rights. Those provisions do not foreclose reliance on a waiver supplied by another statute. They do, however, confirm that § 1334(b)'s jurisdictional grant does not itself supply a general waiver of sovereign immunity. If anything, these specific provisions make clear that Congress did *not* intend to provide a general waiver of sovereign immunity in bankruptcy for any claim that arises under a Government contract. The Court accordingly concludes

[76] *Miller*, 604 U.S. at 532.

[77] *Id.* (internal citations and quotation omitted).

[78] *McGuire*, 550 F.3d at 912 (quoting *United States v. Nordic Village*, 503 U.S. 30, 34 (1992)).

that the Tucker Act must be read to mean what its language most naturally provides—that the waiver of sovereign immunity it grants is limited to suits in the Court of Federal Claims. For that reason, unlike the turnover action for which sovereign immunity is waived, the debtor's breach of contract action brought against the United States will be dismissed for lack of jurisdiction on account of federal sovereign immunity.[79]

IV. The undisputed record establishes that the debtor is entitled to turnover of approximately $8.5 million; the remaining $6 million are genuinely disputed and therefore are not subject to turnover.

The remaining question is which of the 108 pre-termination delivery orders give rise to payment obligations that Noble has established are matured and subject to turnover under § 542(b). It bears noting that the Court rejects the Government's contention that a dispute as to any delivery means that all amounts are disputed and that turnover therefore cannot be granted as to any delivery. As the Government correctly explained in its motion for stay relief, each "Delivery Order is a self-contained purchase."[80] The stay relief motion adds that the "price of one Delivery Order does not depend on other orders, and a missed delivery under one order is not, by itself, a breach of another order."[81] The logic of that position is that the question

[79] The Court separately raised with the parties the question whether they would prefer such counts to be transferred to the Court of Federal Claims rather than dismissed. They indicated that their (joint) preference was that those portions of the complaint be dismissed without prejudice so that they may be filed afresh in the Court of Federal Claims. That approach is agreeable to the Court.

[80] Main Case D.I. 325 at 3.

[81] *Id.*

of whether the debtor is entitled to turnover must be examined on a delivery-by-delivery basis.

Noble's position is set forth in a declaration filed by Robert Albergotti, who is the debtor's chief transformation officer.[82] He explains that "Noble delivered certain goods to the contractually agreed-upon destinations or provided services to the appropriate party through the date of the DLA's purported termination on August 27, 2026, and the Government retained possession of such goods."[83] For some of those goods, "a representative of the Government signed a receiving report."[84] For others, Noble does not have a signed receiving report, but has "obtained proof of delivery from a shipper or freight forwarder."[85] In addition, Albergotti states that the "Government has not raised any defects or nonconformities with respect to the goods and services associated with the Pre-Termination Delivery Orders."[86] Nevertheless, Albergotti states, "the DLA has refused to validate the proof of delivery or provision of services rendered for $14,566,268.02 of Pre-Termination Delivery Orders, thereby preventing Noble from invoicing the DLA for such orders."[87] Albergotti's declaration includes an exhibit that lists the 108 deliveries that he says give rise to the approximately $14.6 million receivable, indicating for each delivery, among other things, the invoice

[82] D.I. 5.

[83] *Id.* ¶ 17.

[84] *Id.*

[85] *Id.*

[86] *Id.*

[87] *Id.*

number, a description of the goods and services provided, the date of delivery, and the amount he contends is due.[88]

In response, the Government attaches to its brief a declaration submitted by John S. Cuorato, Jr., of the DLA.[89] Cuorato helpfully worked off of Albergotti's chart of the 108 deliveries, adding additional columns to provide further information, such as the date when the Government received proof of delivery and whether that proof of delivery was in a form that was acceptable to the Government.[90] He also asserts that for some of the deliveries, the location of the delivery differed from the location that was contractually agreed.[91]

At bottom, in view of the undisputed facts on which the parties' declarations agree, the disputes between them seem to boil down to a handful of issues. *First*, the Government contends that it has not formally "accepted" delivery of any of the 108 deliveries. For that reason, Noble cannot invoice the Government using the electronic system through which the DLA is invoiced by vendors. Because the Government contends that this formal acceptance must occur in order for a debt to mature, it asserts that turnover is not available for any of these amounts.

Second, the Government states that there are some deliveries for which proof of delivery was provided after the date of termination. The Government contends

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[88] D.I. 5-1 at 202–205.

[89] D.I. 19-3.

[90] *Id.* at ¶¶ 9–17.

[91] *Id.* ¶ 12.

that it is not required to accept a proof of delivery that comes after it terminated the contract.

Third, the Government contends that for certain of the deliveries, the proof of delivery provided by Noble was not acceptable to the DLA. The Government does not, however, offer reasons why those proofs of delivery were not acceptable.

And *fourth*, the Government contends that certain of the goods were delivered to locations that differed from those specified in the parties' contract.

For the reasons set forth below, the Court concludes that: (1) a naked assertion that the Government will not accept delivery, without any reason offered for its refusal, does not prevent the debt from maturing; (2) while the Government may not be required to accept delivery of goods provided after the termination date, where Noble delivered the goods before termination, nothing about the fact that the proof of delivery was received afterwards prevents the Government's obligation from maturing; (3) to the extent the DLA has simply announced that proof of delivery is not acceptable, but has failed to offer a reason or rationale in support of its conclusion, the doctrine of constructive acceptance applies, and the obligation to pay those invoices has accordingly matured; and (4) to the extent Noble cannot demonstrate on the existing summary-judgment record that it has delivered the goods to a contractually agreed location, a material disputed fact renders turnover unavailable.

Applying these principles, the Court concludes that Noble holds a debt of $8,493,160.09 from the DLA that is matured and subject to turnover. The remaining amounts Noble seeks give rise to genuine contractual disputes such that turnover is

unavailable. Exhibit A to this Memorandum Opinion is a chart that categorizes each of the 108 deliveries in light of this analysis. Exhibit B to this Memorandum Opinion is an explanation for that categorization.

A. The Government cannot prevent a debt from maturing simply by refusing to "accept" delivery without providing a reason.

The Government takes the position that its acceptance of goods shipped is "an affirmative act" and that unless and until it does so, no obligation can mature.[92] In support of that proposition, it relies on the Federal Circuit's decision in *M.C. & D. Capital Corporation*.[93] There, the Army Corps of Engineers entered into an agreement for the installation of a rubber membrane roof and underlying rigid insulation on the roofs of four buildings containing sophisticated and sensitive electronic defense equipment. The applicable contract expressly stated the Government's possession or use of the work "shall not be deemed an acceptance of any work under the contract."[94] The work, however, was deficient. "[S]erious defects in construction appeared, involving numerous breaches of the roofs' water-tight barriers due to peeling patches, as well as other defects in workmanship."[95] The Government accordingly terminated the contract for default.

The Federal Circuit found that the Government had not finally accepted the work. In view of the express provision in their contract stating that possession is not

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[92] D.I. 42 at 3.

[93] *See M.C. & D. Cap. Corp. v. United States*, 948 F.2d 1251, 1255–1256 (Fed. Cir. 1991).

[94] *Id.* at 1255.

[95] *Id.* at 1254.

acceptance and the termination on account of specific defects in the work, the court found it "difficult to understand MC & D's argument that the Government's taking possession of the work constituted acceptance."[96] Indeed, the Federal Circuit added, "the argument makes no sense, since one reason for this standard 'use and possession' provision is to enable the Government to examine and test substantially complete work before accepting it to insure that it meets the contractual requirements."[97]

The outcome in that case does not establish that acceptance invariably requires an affirmative act by the Government. FAR 46.407(g) provides that "[n]otices of rejection must include the reasons for rejection and be furnished promptly to the contractor," and expressly recognizes that untimely notice may result in acceptance being "implied as a matter of law."[98] Although these contracts incorporate the commercial-items provisions of Part 12, those provisions do not categorically displace other FAR policies.[99] Nothing in the commercial-items acceptance provision conflicts with the recognition that acceptance may, in appropriate circumstances, be implied from the Government's conduct and failure to reject promptly.

The Court of Claims applied that principle in *John C. Kohler Co. v. United States*.[100] There, the Government took possession of and operated a boiler for almost three months without formally accepting it. The court rejected the Government's

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[96] *Id.* at 1255.

[97] *Id.*

[98] 48 C.F.R. § 46.407(g).

[99] *See* 48 C.F.R. § 12.102(c).

[100] 498 F.2d 1360, 1365–67 (Ct. Cl. 1974).

reliance on an unperformed final inspection, explaining that the Government was "in no position to complain that it did not make a final inspection."[101] Its prolonged custody and operation of the boiler constituted implied acceptance.[102] That decision does not establish that delivery alone constitutes acceptance. It does, however, establish that the Government's failure to complete an inspection or acceptance form does not necessarily prevent acceptance from occurring.

Here, for the deliveries as to which Noble has established performance without a genuine factual dispute, the Government has retained the goods or received the services without identifying a defect or rejecting performance. Noble's evidence also establishes that the DLA ordinarily validates proof of delivery, or identifies a specific deficiency, within approximately one week.[103] Despite the passage of substantial time, the Government has identified no deficiency requiring correction for these deliveries, and its unexplained refusal to validate delivery has prevented Noble from submitting invoices through the DLA system. In these circumstances, the Court concludes that the Government has impliedly accepted performance and cannot prevent the resulting payment obligations from maturing merely by withholding the administrative action necessary to permit invoicing.

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[101] *Id.* at 1366.

[102] *Id.* at 1367.

[103] D.I. 5 ¶ 13.

B. So long as the goods were delivered before termination, the proof of delivery may be delivered afterwards without preventing the debt from maturing.

The termination notices that the Government delivered to Noble contain the following language:

> Delivery of material after the date of this notice will not be considered for Goods Receipt posting and Proof of Delivery's indicating delivery of material after the date of this notice will not be accepted or reviewed by DLA.
>
> Excepting the above: Delivery Orders with partial performance will have their outstanding balances terminated. Any receipted balance will remain receipted, and if an invoice has not been submitted to date, Noble must invoice for the outstanding amount that has been receipted. If Noble has already submitted an invoice for that receipted balance, no further action is needed.[104]

The Government reads this language to mean that it is not required to pay in cases in which proof of delivery is received after the date of termination. That reading is incorrect. To be sure, its notice tells the contractor that it should not deliver new goods after the termination date. That is what is meant by the sentence stating that "[d]elivery of material after the date of this notice will not be considered for Goods Receipt posting and Proof of Delivery's indicating delivery of material after the date of this notice will not be accepted or reviewed by DLA." The reference to "receipted" balances preserves the invoicing process for balances already recorded. The Court therefore rejects the contention that otherwise acceptable proof of pretermination delivery is ineffective merely because Noble submitted it after termination.

[104] D.I. 5-1 at 191.

Nothing in the statement, moreover, suggests that the Government is not obligated to pay for goods that were delivered before the termination date. Indeed, the contrary is suggested by the statement that "if an invoice has not been submitted to date, Noble must invoice for the outstanding amount that has been receipted." The Court accordingly rejects the Government's contention that, where Noble delivered the goods before termination, and has provided acceptable proof of delivery, that the debt fails to mature because the proof of delivery was delivered after the termination of the contract.

C. The mere declaration that proof of delivery was not acceptable, without any articulation of a reason to support the conclusion, does not prevent a debt from maturing.

For another category of invoices, the Government states that the proof of delivery was not acceptable. For these deliveries, Noble's declaration establishes that it has provided a shipper's proof of delivery to the required destination. The Government does not deny receipt, identify a discrepancy in the delivery documents, or explain any other deficiency in that evidence. Its unexplained designation of the proof as unacceptable therefore does not identify a genuine factual dispute concerning delivery.

The Government's unsupported assertion that the proof of delivery was unacceptable raises essentially the same issue as its contention that it never affirmatively accepted the goods. To be sure, had the Government come forward with a declaration that states "notwithstanding the shipper's statement that goods were delivered, we have not received the goods," this would be a different case. That circumstance would likely present a genuine dispute of fact regarding the delivery of

the goods. That would therefore be a contract dispute that is not amenable to resolution through a turnover action. But the Government has said no such thing. Rather, it essentially asserts a unilateral right to prevent a debt from maturing without taking any issue with whether the contractor has performed its contractual obligations. That is a commercially implausible result and therefore, unsurprisingly, is not supported by any of the authority to which the Government points.

D. Noble is not entitled to turnover for deliveries where there is a genuine dispute regarding the location of the delivery.

For a final category of goods, the Government contends that the location where the shipper reports delivering the goods differs from that specified in the contract. Noble's counsel responds that delivery to a different destination would have occurred only upon the Government's written consent or direction. But Noble identifies no such authorization in the existing summary-judgment record for these deliveries. The discrepancy between the required and reported destinations therefore presents an unresolved question of contractual performance. Under the approach explained in Part III.B, Noble has not established an entitlement to turnover of those amounts.

Conclusion

For the foregoing reasons, the Government's motion for adequate protection will be denied and its motion for relief from the automatic stay will be granted. The Court will enter summary judgment in favor of Noble, in part, and deny summary judgment, in part, on its claim for turnover. The Government will be directed (unless, of course, this Court's orders are stayed or reversed before then) to make payment to Noble on the $8,493,160.0§9 on which judgment is entered in Noble's favor by

November 9, 2026. The Government's motion to dismiss Noble's claim for breach of contract on federal sovereign immunity grounds will be granted. The parties are directed to settle forms of order so providing.

Dated: November 2, 2026

CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

Line	Not Terminated	Fast payment	Delivered to correct location and Proof Acceptable and Proof received before termination Date	Delivered to correct location and Proof acceptable but Proof received after Termination Date	Proof not acceptable but delivered to correct location	Dispute over delivery to correct location
1			$ 5,378.20			
2			$ 5,378.20			
3			$ 5,378.20			
4			$ 5,011.80			
5			$ 5,011.80			
6			$ 5,011.80			
7		$ 14,190.00				
8	$ 513,064.24					
9	$ 12,043.95					
10					$ 16,384.00	
11				$ 27,403.40		
12				$ 27,403.40		
13				$ 87,302.82		
14				$ 21,608.16		
15				$ 11,279.90		
16					$ 160.65	
17					$ 362,517.96	
18					$ 1,554.48	
19					$ 1,165.86	
20					$ 1,165.86	
21					$ 582.93	
22					$ 388.62	
23			$ 10,973.40			
24			$ 9,803.90			
25			$ 9,742.90			
26					$ 1,830,625.00	
27			$ 73,293.00			
28			$ 25,620.21			
29			$ 17,423.82			
30			$ 9,447.45			
31			$ 7,365.81			
32				$ 25,690.70		
33					$ 14,722.40	
34					$ 8,536.00	
35					$ 5,401.00	
36					$ 4,268.00	
37					$ 4,268.00	
38					$ 4,092.00	
39					$ 3,432.00	

40					$ 3,432.00	
41					$ 3,234.00	
42					$ 2,700.50	
43					$ 1,940.40	
44					$ 1,940.40	
45					$ 1,716.00	
46					$ 1,716.00	
47					$ 1,138.50	
48						$ 30,800.00
49					$ 13,917.50	
50					$ 85,922.48	
51			$ 694,423.87			
52				$ 723,792.36		
53				$ 45,830.57		
54		$ 388.62				
55					$ 163,057.00	
56	.		$ 11,949.33			
57				$ 60,704.00		
58				$ 39,249.94		
59					$ 43,780.56	
60		$ 16,198.60				
61		$ 1,994.30				
62		$ 886.82				
63			$ 9,961.23			
64			$ 28,638.72			
65					$ 330,047.91	
66					$ 281,497.96	
67					$ 151,784.79	
68			$ 9,961.23			
69				$ 15,163.50		
70					$ 139,589.85	
71					$ 3,182.79	
72					$ 2,154.85	
73					$ 2,032.28	
74					$ 997.60	
75					$ 18,914.94	
76				$ 1,575.00		
77					$ 0.01	
78					$ 0.01	
79						$ 344,775.18
80					$ 228,690.00	
81				$ 30,497.82		
82						$ 59,165.30
83						$ 933,747.04

84						$ 285,574.65
85					$ 1,266,370.20	
86	$ 35,700.00					
87					$ 712,056.50	
88					$ 11,365.86	
89					$ 2,284.06	
90					$ 2,508.00	
91						$ 3,357,697.60
92						$ 962,784.00
93						$ 98,564.16
94					$ 7,430.15	
95					$ 972.00	
96					$ 972.00	
97					$ 710.74	
98					$ 710.74	
99					$ 646.16	
100					$ 646.12	
101					$ 646.12	
102					$ 646.12	
103					$ 44,473.94	
104					$ 22,487.01	
105					$ 2,845.29	
106					$ 2,845.29	
107					$ 2,845.29	
108	$ 5,302.44					
Total	**$ 566,110.63**	**$ 33,658.34**	**$ 949,774.87**	**$ 1,117,501.57**	**$ 5,826,114.68**	**$ 6,073,107.93**

Delivery orders accepted by the government	**$ 2,667,045.41**

Total amount subject to turnover	**$ 8,493,160.09**
Total not subject to turnover	**$ 6,073,107.93**
Total amount at controvery	**$ 14,566,268.02**

Exhibit B – Narrative explanation for chart attached as Exhibit A

The Declaration of John S. Cuorato, Jr. included a schedule that set forth the DLA's position regarding the 108 deliveries described in Robert Albergotti's declaration.[1] In the chart attached to the Memorandum Opinion as Exhibit A, the Court identifies the 108 deliveries in the same manner as do the parties.

The Court placed each of the deliveries into one of the six groups set forth below. In grouping each of the deliveries, the Court relied on data set forth in the columns from the Cuorato Declaration labeled Terminated, Goods First Received, Proof Acceptable, and Notes. The six groups are as follows:

1. *Not terminated*. Delivery orders within this group were marked "No" under the *Terminated* column in the Cuorato Declaration. The summary judgment record sets forth no basis why amounts due in this category are not matured.

2. *Fast payment*. Delivery orders within this group were noted in the Cuorato Declaration to be on "fast payment" and scheduled to be paid by October 21, 2026. To the extent payment for these line items have not been made, the summary-judgment record provides no basis why amounts due in this category are not matured. To the extent these payments have been made, the order submitted by the parties should reduce the appropriate turnover amount accordingly.

3. *Delivered to correct location and proof acceptable and proof received before termination date*. Delivery orders are included in this group if in the Cuorato

[1] Cuorato's declaration is docketed at D.I. 19-2. Albergotti's declaration is docketed at D.I. 5.

Declaration, (a) the delivery is marked "Yes" for *Proof Acceptable*, (b) *Proof First Received* is dated before August 27, 2026, and (c) neither the *Notes* column nor the rest of the summary judgment record indicates a dispute over the delivery location. The only asserted basis for refusing delivery of these items is the Government's position that acceptance requires an affirmative act on its part. The Court rejects that argument in Part IV.A of the Memorandum Opinion.

4. *Delivered to correct location and proof acceptable but proof received after termination date*. Delivery orders are included in this group if the delivery would otherwise fall within the third category, but proof of delivery was provided after August 27, 2026. The Court addresses these deliveries in Part IV.B of the Memorandum Opinion.

5. *Proof not acceptable but delivered to correct location.* Delivery orders are included in this group if the Cuorato Declaration says "No" in the column labeled *Proof Acceptable*, but neither the *Notes* column nor the rest of the summary judgment record indicates a dispute over the delivery location. The Court addresses these deliveries in Part IV.C of the Memorandum Opinion.

6. *Dispute over delivery to correct location.* Delivery orders within this group were noted in the Cuorato Declaration to have been delivered to a location other than ordered or without prior approval. The Court addresses these deliveries in Part IV.D of the Memorandum Opinion.

The delivery orders are grouped accordingly as follows:

Lines 8, 9, 86, and 108 have not been terminated.[2]

Lines 7, 54, and 60-62 are noted to be on Fast Payment track with payment scheduled for October 21, 2026.

Lines 1-6, 23-25, 27-31, 51, 56, 63-64, and 68 are orders that are marked to have proof first received prior to August 27, 2026, and the proof is marked as acceptable by the Government.[3]

Lines, 11-15, 32,52-53, 57-58, 69, 76, and 81 are orders that are marked to have proof received after August 27, 2026, but its proof was acceptable by the Government.

Lines 10, 16-22, 26, 33-47, 49-50, 55, 59, 65-67, 70-75, 77-78, 80, 85, 87-90, and 94-107 were delivered to the correct location but the proof was not acceptable by the Government.[4]

Lines 48, 79, 82-84, and 91-93 are those for which Noble has not demonstrated that the goods were delivered to the correct location.

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[2] The Government's note on Line 9 states that the schedule lists 3 unites while the packing slip shows 10. As Noble explains in response, however, the alleged discrepancy is illusory because it the order is a mix of physical products and training services, and the Schedule only lists the physical product, while the packing slip lists both. It is therefore subject to turnover. Line 108 is addressed in note 4.

[3] The Government's note on Lines 63 and 68 states that the same order line was billed twice with full quantity already received and invoiced. The summary judgment record shows that these orders were for two separate training courses—one was held on August 13 and 14, 2026 and the other was held on August 17 and 18 2026. D.I. 5-1, Ex. C-1 and C-2. The assertion that these are single amounts that were billed twice is therefore incorrect.

[4] The Government's note on Line 10 states that schedule amount exceeds order price of $15,009.70. Noble has agreed to a reduction in this amount. The form of order that the parties submit should reflect that adjustment. The Government notes for Lines 94-108 "in Noble's 'Delivery Aug 28 +After." The summary judgment record shows that the goods were in fact delivered before the termination date and that the Government's assertion that these were goods delivered after termination is based on the mislabeling of the folder in which the documents were located when they were produced in discovery.

Line 48 is noted in the Cuorato Declaration to have been ordered for Cannon AFB, NM but the proof of delivery shows delivery to Suitland, MD.

Line 79 is noted in the Cuorato Declaration to have been ordered for Hanahan, SC but proof of delivery states it was delivered to Camp Pendleton, CA.

Lines 82-84 and 91-93 are noted in the Cuorato Declaration to have been delivered to Fort Bragg, NC without an approved change of address request.

The opinion places the six groups of orders into three categories which are reflected in the chart as follows:

Category 1. Deliveries for orders that have not been terminated or where the Government has accepted delivery of the goods or services. This category is This category combines total amounts from groups 1-4 stated above and is reflected in cell titled "Delivery Accepted by the Government" **($2,667,045.41)**.

Category 2. Deliveries that were made to the correct location, but where the Government has not formally "accepted" the delivery but has not offered a reason for its refusal to do so. This category is reflected in the total amount of group 5 **($5,826,114.68).** Both categories 1 and 2 are subject to turnover (totaling **($8,493,160.09).**

Category 3. Deliveries that were made to a location other than the one specified in the contract, where the debtor has been unable to demonstrate on the existing record that the Government has agreed to accept delivery at that location. This category is reflected in group 6 (**$6,073,107.93).**

EXHIBIT 2

The Bankruptcy Court's administrative stay: Transcript of Oct. 28, 2026 Hearing [Bankr. D.I. 428] (cover and pp. 162–164)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
	Case No. 26-11369 (CTG)
NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,	(Jointly Administered)
Debtors.	
NOBLE SUPPLY & LOGISTICS, LLC,	Adversary Proceeding No. 26-50885 (CTG)
Plaintiff,	
v.	
DEFENSE LOGISTICS AGENCY,	Courtroom No. 7 824 Market Street Wilmington, Delaware 19801
Debtors.	
	Wednesday, October 28, 2026 10:00 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

Audio Operator: Alyce Doody, ECRO

Transcription Company: Reliable
The Nemours Building
1007 N. Orange Street, Suite 110
Wilmington, Delaware 19801
Telephone: (302)654-8080
Email: gmatthews@reliable-co.com

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

confusing that's a problem for you but that sort of is what it is.

MR. LAMB: Your Honor, just to be clear, you're limiting the record we're relying on for this Friday submission to the record before the --

THE COURT: To what is already in the summary judgment record, exactly.

MR. LAMB: Okay. Because the debtors did provide numerous documents for review that are included in the record.

THE COURT: I'm going to rule based on the existing record. I feel like -- I'm asking for additional help in understanding the existing record, not in redoing summary judgment.

MR. LAMB: Understood, Your Honor. Thank you.

THE COURT: Okay.

MR. DEAN: Okay. Fair enough, Your Honor. I have nothing further unless you have any other questions for me. We will get you our letter by Friday and we thank you very much for your time today. I know this is a difficult motion and a difficult record to get through.

THE COURT: No, look, this is the job for which I signed up. So, I am not -- you are not going to hear me complaining about this.

MR. LAMB: Your Honor, if I may?

THE COURT: Yes, you may.

MR. LAMB: If the Court does order turnover today, it's unclear --

THE COURT: So, I'm not ordering it today because I haven't identified what the universe is. If -- what I'm asking you to do though is for the things were based on my ruling you don't have a basis to dispute the obligation to turn it over. I would like you to see if you can work out an order that you can submit under certification. I'd like to enter that order as quickly as I can.

So, where there are things where you're taking the position in light of everything I've said it's going to turn on my resolution of these letters. That is not going to be subject of that order but where there is no longer a good faith basis other then you disagree with me, which you can do in good faith, but I'm going to enter an order requiring turnover of that stuff.

Let me say this, that's going to be -- once you do that I'm going to order that the payment be made within five days of the order and that five days is an administrative stay. So, you have got to get -- I'm going to give you five days to get the District Court or the Third Circuit to grant a further stay pending appeal. I want to be respectful of them and not jam them unduly but I also think I have no choice but to jam them a bit under the circumstances of the

case.

MR. LAMB: Understood, Your Honor. That is exactly what I going to ask.

THE COURT: Okay, very well.

MR. DEAN: Can I just ask one clarifying question on the potential certification where you've kind of already told us where you are and what is not disputed. Are we really talking about the lines that your clerk identified?

THE COURT: I think so.

MR. DEAN: 1 through 6, 23, 25, 27 to 31, 51 and 56, is that -- I just want to make sure.

THE COURT: Why don't we ask Sandy that question.

(Pause)

THE COURT: I know my own limits.

MR. DEAN: I just want to make sure I wrote them down accurately so I don't mess it up.

(Off record discussion)

THE COURT: And, again, the principle is the one that we were talking about which is we're talking about deliveries before the 27th, proof received before the 27th, and where the column that says proof acceptable the answer is yes.

MR. DEAN: Understood.

THE COURT: And so that is what we're talking about.

EXHIBIT 3

Declaration of Ryan W. Lamb

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,[1] Debtors.	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
DEFENSE LOGISTICS AGENCY, Appellant, v. NOBLE SUPPLY & LOGISTICS, LLC, Appellee.	C.A. No. 26-1433 (UNA) Adv. Proc. No. 26-50885 (CTG)

DECLARATION OF RYAN W. LAMB IN SUPPORT OF THE EMERGENCY MOTION OF THE UNITED STATES FOR A STAY PENDING APPEAL AND A TEMPORARY ADMINISTRATIVE STAY

I, Ryan W. Lamb, declare as follows:

1. I am a Trial Attorney in the Corporate/Financial Litigation Section of the Commercial Litigation Branch, Civil Division, U.S. Department of Justice. I am one of the attorneys representing the United States, on behalf of the Defense Logistics Agency ("DLA"), in this appeal and in the adversary proceeding below, Adv. Proc. No. 26-50885 (CTG). I make this declaration under Bankruptcy Rule 8013(d)(2)(A) and (d)(3) in support of the *Emergency Motion*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

of the United States for a Stay Pending Appeal and a Temporary Administrative Stay (the "Stay Motion"). I have personal knowledge of the facts stated here.

THE NATURE OF THE EMERGENCY

2. On November 6, 2026, the Bankruptcy Court entered its *Order (I) Granting in Part and Denying in Part Motion of Noble Supply & Logistics, LLC For Partial Summary Judgment, (II) Granting in Part and Denying in Part the United States' Motion to Dismiss, and (III) Denying the United States' Cross-Motion for Summary Judgment* [Adv. D.I. 50] (the "Turnover Order").[2] The Turnover Order directs DLA to remit payment of $8,458,127.45 to Noble Supply & Logistics, LLC ("Noble") on or before November 9, 2026, unless the order is earlier stayed or reversed. [Turnover Order ¶ 6.]

3. On November 6, 2026, the United States filed its Amended Notice of appeal from the Turnover Order in the Bankruptcy Court [Adv. D.I. 51]. On the same date, the United States filed its Stay Motion in this Court.

4. As set forth in the Stay Motion, the United States seeks a stay pending appeal of the Turnover Order pursuant to Federal Rules of Bankruptcy Procedure 8007 and 8013, and an administrative stay of the Turnover Order pending this Court's determination whether a stay pending appeal is appropriate.

5. As further set forth in the Emergency Motion, the Appellee, Noble Supply & Logistics, LLC ("Noble"), has consented to an administrative stay of the Turnover Order through and including November 16, 2026, while the Court decides the Motion.

[2] The Turnover Order implements a Memorandum Opinion [Adv. D.I. 43] entered by the Bankruptcy Court in the adversary proceeding on November 2, 2026.

6. The United States has requested the Court consider the Stay Motion in short order, by November 10th. The United States also requested the Court enter an order administratively staying the Turnover Order through November 16th.

7. If the Court is unable to issue a decision by November 10th, the United States requests the Court enter an order administratively staying the Turnover Order past November 16th, while the Court decides the Stay Motion. Noble has not consented to an administrative stay past November 16th.

8. Emergency relief is necessary concerning the Stay Motion to determine whether a stay pending appeal is appropriate or, in the alternative, to determine whether the administrative stay should be extended beyond November 16, 2026. In the absence of emergency relief, pursuant to Bankruptcy Rule 8013(a)(3)(A), Noble's response to the Stay Motion shall be due on Friday, November 13, 2026, leaving inadequate time for the United States to reply and for the Court to hold a hearing (if necessary) prior to the expiration of the consented administrative stay on Monday, November 16, 2026. Also, in the event the Court does not grant a stay pending appeal, the United States will have inadequate time to seek further appellate relief concerning the Stay Motion.

9. Without emergency relief, the United States could be required to turn over the funds ordered in the Turnover Motion prior to the Court's determination of the Stay Motion. As set forth in the Stay Motion, if the United States is required to turn over funds prior to a decision on the appeal, it will have little or no chance of recovering any funds released following a successful appeal.

10. Further, the Bankruptcy Court denied the United States' motion for adequate protection, which asked for a reserve or other protection against monies DLA has been ordered to

pay to Noble, which orders are now on appeal. Op. 3; Hr'g Tr. 50:18–21 (Ex. 4-I). The United States' claims against Noble are likely to exceed any amounts Noble may claim from DLA, so later payments to Noble would likely not be available to recover the turnover amount.

11. For these reasons, the United States needs a temporary administrative stay through November 16, 2026, and a ruling on the Motion by November 10, 2026, so that it can obtain a final decision on its request for a stay prior to the date on which it must otherwise remit funds to Noble. Without such a stay, DLA must pay money it may never recover, and the payment may moot the appeal before this Court can decide it.

NOTICE TO COUNSEL FOR NOBLE

12. On November 5, 2026, at 2:43 p.m. (ET), I notified counsel for Noble, David Dean, Anthony De Leo, Seth Van Aalten, Patrick Reilley, and Jack Dougherty of Cole Schotz P.C., by email, that the United States would file the Stay Motion in this Court and would ask for a temporary administrative stay of the Turnover Order while the Court decides the Motion.

13. Following further discussion between the parties, on November 6, 2026, at 9:54 a.m. (ET), Mr. Dean clarified by email that Noble opposes the Stay Motion but will agree to a court-ordered temporary administrative stay until no later than November 16, 2026, while the Court decides the Stay Motion.

14. The email addresses, office addresses, and telephone numbers of counsel for the United States and of counsel for Noble are listed in the Motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 6, 2026, in Washington, D.C.

/s/ Ryan W. Lamb
Ryan W. Lamb

EXHIBIT 4

Record excerpts (index below)

EXHIBIT 4-A

Complaint, Adv. D.I. 1 at 1, 9–11, 13 (¶¶ 29, 38, 44, 55)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-_____ (CTG)

ADVERSARY COMPLAINT

Noble Supply & Logistics, LLC ("Noble" and, collectively with its affiliated debtors and debtors in possession, the "Debtors"), a debtor and debtor in possession in the above-captioned chapter 11 cases and plaintiff in the above-captioned adversary proceeding (this "Adversary Proceeding"), hereby alleges as follows:

NATURE OF THE ACTION

1. Noble brings this action against the Defense Logistics Agency (the "DLA"), Noble's largest customer, for turnover of not less than $18,960,176.31 on account of safety

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

28. As of the date hereof, the DLA has refused to validate the proof of delivery or provision of services for $4,393,908.29 of Post-Termination Delivery Orders, thereby preventing Noble from invoicing the DLA for such orders in the WAWF platform.

29. In total, as of the date hereof, Noble is entitled to payment in connection with the Accepted Delivery Orders (delivered both as of and after the date of the Termination Notices) in the amount of not less than $18,960,176.31.

30. The Debtors have forecasted that the DLA would settle invoices in the ordinary course of business for goods delivered and services provided as of (and after) the date the Termination Notices were received. To that extent, the Debtors' liquidity forecast that underpins the Cash Collateral Order[9] (and related budget) assumed that a material portion of the $14,566,268.02 in Pre-Termination Delivery Orders would be paid. Absent an expedited resolution of this issue, the Debtors will exhaust their liquidity during the first week of November 2026.

CAUSES OF ACTION

COUNT I
(Turnover Pursuant to 11 U.S.C. § 542)

31. Noble incorporates by reference paragraphs 1 through 30 as if fully set forth herein.

32. Noble supplied and delivered goods and services to the Government pursuant to the Contracts and Accepted Delivery Orders described herein. Noble fully performed its obligations with respect to the Accepted Delivery Orders by delivering the goods and providing the services associated therewith to the contractually agreed upon delivery destination or appropriate party.

[9] *Second Interim Order (I) Authorizing Limited Use of Cash Collateral, (II) Granting Adequate Protection Liens and Superpriority Administrative Expense Claims to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [D.I. 218] (the "Cash Collateral Order").

33. The Government signed the underlying receiving report for each of the deliveries of goods underlying the Accepted Delivery Orders or implicitly accepted such goods by failing to timely reject them following delivery. The Government accepted the services underlying the Accepted Delivery Orders at the time they were provided.

34. The Government has retained the benefit of the goods and services associated with the Accepted Delivery Orders.

35. To date, the Government has not identified any defects or non-conformities with respect to the goods and services underlying the Accepted Delivery Orders.

36. Pursuant to the Contracts, payment is required for items accepted by the Government that have been delivered to the applicable delivery destination.

37. As a result of Noble's delivery of goods and provision of services, and the Government's acceptance thereof, the DLA's obligation to pay Noble for the Accepted Delivery Orders is fixed, matured, presently due, and payable on demand, and no further act, event, or condition precedent is required to trigger the DLA's payment obligation.

38. The DLA presently owes Noble not less than $18,960,176.31 on account of the Accepted Delivery Orders.

39. Noble's right to receive payment from the DLA in connection with the Accepted Delivery Orders constitutes property of Noble's estate within the meaning of section 541(a) of the Bankruptcy Code and is subject to administration by Noble's estate for the benefit of its creditors.

40. The amounts owed by the DLA in connection with the Accepted Delivery Orders are of substantial value to Noble's estate and are not of inconsequential value or benefit.

41. As detailed in the Court's September 18, 2026 Order [D.I. 151], any rights of setoff under 11 U.S.C. § 553 must be asserted via a duly filed motion by the DLA, which to date has not been filed.

42. Section 542(b) of the Bankruptcy Code requires an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order to pay such debt to the debtor in possession.

43. Upon the filing of its chapter 11 petition, all legal and equitable interests of Noble in property became property of the estate under section 541(a) of the Bankruptcy Code.

44. Because the DLA owes a matured debt that constitutes property of Noble's estate, the DLA is required pay and turn over not less than $18,960,176.31 to Noble on account of the Accepted Delivery Orders pursuant to section 542(b) of the Bankruptcy Code.

45. In the alternative, to the extent the Court determines that direct turnover of the receivable or debt is unavailable under section 542(b), as of the date of this Complaint, the Government is in possession, custody, or control of property of the estate, or the value thereof, within the meaning of section 542(a) of the Bankruptcy Code.

46. By retaining the benefit of the goods and services delivered and provided by Noble while failing to remit payment therefor, the DLA has retained property of the estate, or the value of such property, that Noble may use, sell, or lease pursuant to section 363 of the Bankruptcy Code.

47. Pursuant to section 542(a) of the Bankruptcy Code, the DLA is therefore required to deliver to Noble the value of the property of the estate represented by the unpaid Accepted Delivery Orders in an amount not less than $18,960,176.31.

53. The DLA breached the Contracts by failing and refusing to pay Noble for goods delivered and services provided to and accepted by the Government under the Accepted Delivery Orders.

54. The DLA's failure to remit payment for accepted goods and services constitutes a material breach of the Contracts.

55. As a direct and proximate result of the DLA's breach, Noble has suffered damages in an amount not less than $18,960,176.31 under the Accepted Delivery Orders.

PRAYER FOR RELIEF

WHEREFORE, Noble respectfully requests that this Court enter judgment in favor of Noble as follows:

(a) On Count I, an order requiring immediate turnover of estate property held by the DLA in the amount of not less than $18,960,176.31 to Noble;

(b) In the alternative, on Count II, an award of actual damages suffered by Noble in the amount of not less than $18,960,176.31 (plus reasonable interest as determined by this Court) to compensate it for any loss sustained;

(c) An award of reasonable attorneys' fees and costs incurred in this action; and

(d) Granting Noble such other relief as the Court deems appropriate under the circumstances.

[*Remainder of page intentionally left blank*]

EXHIBIT 4-B

Noble's Motion for Partial Summary Judgment, Adv. D.I. 3, and Supporting Brief, Adv. D.I. 4 at 1, 6–7, 14, 25

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-50885 (CTG)

MOTION OF NOBLE SUPPLY & LOGISTICS, LLC
FOR PARTIAL SUMMARY JUDGMENT

Noble Supply & Logistics, LLC ("Noble" and, collectively with its affiliated debtors and debtors in possession, the "Debtors"), a debtor and debtor in possession in the above-captioned chapter 11 cases and plaintiff in the above-captioned adversary proceeding, hereby moves (the "Motion"), pursuant to sections 105(a), 541(a), and 542 of title 11 of the United States Code, Rule 56 of the Federal Rules of Civil Procedure (made applicable to this Adversary Proceeding by Rule 7056 of the Federal Rules of Bankruptcy Procedure), and Rule 7056-1 of the Local Rules of the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

United States Bankruptcy Court for the District of Delaware, for entry of an Order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), granting partial summary judgment in favor of Noble on Counts I and II of the Adversary Complaint [Adv. D.I. 1] (the "Complaint"), solely with respect to the Pre-Termination Delivery Orders.[2] In support of this Motion, Noble incorporates and relies on its opening brief in support of the Motion and the *Declaration of Robert Albergotti, Chief Transformation Officer of Noble Equity Holdings, LLC, in Support of Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment*, both filed contemporaneously herewith, and respectfully states as follows:

Noble consents to entry of a final order to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

WHEREFORE, for the reasons set forth in the accompanying brief, Noble respectfully requests entry of the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting partial summary judgment in its favor and against the DLA, solely with respect to the Pre-Termination Delivery Orders, and granting such other and further relief as the Court deems just and proper.

[*Remainder of this page intentionally left blank.*]

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Complaint.

Dated: October 6, 2026
Wilmington, Delaware

/s/ G. David Dean

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Proposed Co-Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-50885 (CTG)

ORDER GRANTING MOTION OF NOBLE SUPPLY & LOGISTICS, LLC FOR PARTIAL SUMMARY JUDGMENT

This matter having come before this Court on the *Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment* (the "Motion");[2] and this Court having reviewed the Motion, the Brief in support thereof, the Albergotti Declaration, and all exhibits attached thereto; and this Court having reviewed any responses and objections filed in connection with the Motion and having heard oral argument regarding the Motion at a hearing before this Court; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found this is a core proceeding under 28 U.S.C. § 157(b)(2); this Court having found it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409; and this Court having found that Noble's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other or further notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing on the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED** as set forth herein.

2. Summary judgment is granted in favor of Noble and against the DLA on Counts I and II of the Complaint, solely with respect to the Pre-Termination Delivery Orders.

3. The Court finds that Noble delivered the goods and provided the services associated with the Pre-Termination Delivery Orders to the contractually required destinations and parties through the date of the August 27, 2026 Termination Notices, and that such goods and services were accepted or deemed accepted by the Government.

4. The Court further finds that all acts necessary to create Defendant's payment obligation with respect to the Pre-Termination Delivery Orders have occurred, that the DLA's payment obligation is matured and presently due and payable, and that Noble is entitled to recover all amounts due and owing on account of the Pre-Termination Delivery Orders.

5. Judgment is entered in favor of Noble and against the DLA in the amount of $14,566,268.02, representing the amount due and owing on account of the Pre-Termination Delivery Orders.

6. The DLA is hereby ordered to remit payment to Noble in the amount of $14,566,268.02 within three (3) business days of entry of this Order.

7. The terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

8. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-50885 (CTG)

BRIEF IN SUPPORT OF MOTION OF NOBLE SUPPLY & LOGISTICS, LLC FOR PARTIAL SUMMARY JUDGMENT

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[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

Noble Supply & Logistics, LLC ("Noble" and, collectively with its affiliated debtors and debtors in possession, the "Debtors"), a debtor and debtor in possession in the above-captioned chapter 11 cases (collectively, the "Chapter 11 Cases") and plaintiff in the above-captioned adversary proceeding (this "Adversary Proceeding"), by and through its undersigned proposed counsel, hereby submits this Brief in support of the *Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment* (the "Motion")[2] filed contemporaneously herewith.

PRELIMINARY STATEMENT

1. Noble and the other Debtors were forced to commence these Chapter 11 Cases due to significant operational and liquidity issues stemming in large part from ongoing disputes with the Defense Logistics Agency (the "DLA"), Noble's largest customer. Prior to the commencement of these cases, the DLA declined to renew certain contracts and terminated hundreds of millions of dollars in orders previously placed with Noble, which rendered the Debtors unable to service their funded debt and other obligations. The Debtors commenced these Chapter 11 Cases with minimal liquidity in order to maximize value for their stakeholders through a parallel sale and wind down process.

2. Since the petition date, the DLA has refused to pay Noble amounts due and owing under the parties' agreements, frustrating the Debtors' ability to operate their business and administer these Chapter 11 Cases. On September 18, 2026, the Court entered an Order finding the DLA violated the automatic stay by improperly blocking payment of $6,972,618 to Noble and directed the DLA to promptly remit payment thereof.[3]

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[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

[3] D.I. 151 at ¶ 6. Citations to [D.I.] shall refer to the docket in these Chapter 11 Cases.

3. More recently, the DLA has refused to validate proof of delivery for certain goods or services Noble delivered or provided in accordance with the parties' agreements. This has prevented Noble from invoicing the DLA for these goods and services and obtaining payment. The Government accepted delivery of such goods by signing the underlying receiving report or failing to timely reject delivered goods, and accepted such services at the time they were provided. Moreover, post-acceptance, the government did not raise any defects or nonconformities with respect to such goods and services.

4. The DLA's sole basis for failing to pay for these goods and services is because it purportedly terminated certain other orders that had not yet been fulfilled by a notice dated August 27, 2026. The DLA appears to take the blanket position—just as it did with respect to the parties' prior setoff dispute—that such termination entitles the DLA to withhold payment for *all* Noble orders, including approximately $14.5 million of orders that were fulfilled and delivered or provided to the DLA through and including the August 27 termination date (such orders, the "Pre-Termination Delivery Orders"). The DLA's absurd position cannot be reconciled with its own Termination Notices, which *expressly excluded* orders delivered through the date of termination, or relevant Federal Acquisition Regulations and provisions of the Uniform Commercial Code.

5. Based on the foregoing, Noble seeks partial summary judgment solely on its claims to recover the amounts due and owing on account of the Pre-Termination Delivery Orders. Because the DLA's purported termination was ineffective as to goods delivered and services provided through the date of termination, and which the government accepted, there can be no dispute that Noble is entitled to payment on account of the Pre-Termination Delivery Orders as a matter of law.

August 27, 2026, and the Government retained possession of such goods. *Id.* at ¶ 17. For each Pre-Termination Delivery Order of goods, either a representative of the Government signed a receiving report for such goods or Noble obtained proof of delivery from a shipper or freight forwarder. *Id.*

27. The Government has not raised any defects or nonconformities with respect to the goods and services associated with the Pre-Termination Delivery Orders as of the date hereof. *Id.*

28. As of the date hereof, the DLA has refused to validate the proof of delivery or provision of services rendered for $14,566,268.02 of Pre-Termination Delivery Orders, thereby preventing Noble from invoicing the DLA for such orders in the WAWF platform. *Id.*

29. Attached to the Albergotti Declaration as Exhibit E is a schedule (the "Schedule") identifying the (i) Contract number, (ii) invoice number, (iii) item delivered, (iv) quantity delivered, (v) date of delivery, and (vi) amount due and owing for each Pre-Termination Delivery Order. Albergotti Declaration, ¶ 19.[13]

30. The Debtors have forecasted that the DLA would settle invoices in the ordinary course of business for goods delivered and services provided as of (and after) the date the Termination Notices were received. *Id.* at ¶ 20. To that extent, the Debtors' liquidity forecast that underpins the Cash Collateral Order (and related budget) assumed that a material portion of the $14,566,268.02 in Pre-Termination Delivery Orders would be paid. *Id.* Absent an expedited resolution of this issue, the Debtors will exhaust their liquidity during the first week of November 2026. *Id.*

[13] Noble submits that the Schedule contains more than sufficient evidence demonstrating that Noble is entitled to payment on account of the Pre-Termination Delivery Orders. The Schedule was prepared using information obtained from Noble's NetSuite system and underlying voluminous documentation, which will be made available to the DLA for inspection upon request.

58. *Third*, the DLA breached the Contracts by refusing to validate Noble's proof of delivery for the goods and services associated with the Pre-Termination Delivery Orders. As a result, Noble is unable to invoice the DLA for orders Noble fulfilled in accordance with the Contracts. As explained above, Noble has satisfied all of the contractual requirements necessary to establish a right to payment in connection with the Pre-Termination Delivery Orders. The DLA's withholding of payment in connection therewith constitutes a clear breach of its payment obligations under the Contracts.

59. *Fourth*, Noble has suffered damages as a direct result of the DLA's breach in the amount of $14,566,268.02 (*i.e.*, the total amount due and owing under the Pre-Termination Delivery Orders. The Schedule attached to the Albergotti Declaration identifies the amounts due and owing for each Pre-Termination Delivery Order, and there are no facts in the record by which the DLA can dispute such amounts are due and owing.

60. Accordingly, Noble is entitled to summary judgment on Count II of the Complaint as to the Pre-Termination Delivery Orders and resulting damages in the amount of $14,566,268.02.

CONCLUSION

For the reasons discussed above, Noble is entitled to partial summary judgment with respect to Counts I and II of the Complaint, solely with respect to the Pre-Termination Delivery Orders. A proposed form of order granting Noble's request for partial summary judgment on these Counts, which Noble requests be entered, is attached as **Exhibit A** to the Motion.

EXHIBIT 4-C

Declaration of Robert Albergotti, Adv. D.I. 5 at 1, 6–7 (¶ 17), and its Exhibit A-1 (Contract SPE8EJ-21-D-0022, with FAR 52.212-4), Adv. D.I. 5-1 at 1–2, 10–13

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
NOBLE SUPPLY & LOGISTICS, LLC, Plaintiff, v. DEFENSE LOGISTICS AGENCY, Defendant.	Adv. Proc. No. 26-50885 (CTG)

DECLARATION OF ROBERT ALBERGOTTI, CHIEF TRANSFORMATION OFFICER OF NOBLE EQUITY HOLDINGS, LLC, IN SUPPORT OF MOTION OF NOBLE SUPPLY & LOGISTICS, LLC FOR PARTIAL SUMMARY JUDGMENT

I, Robert Albergotti, Chief Transformation Officer ("CTO") of Noble Equity Holdings, LLC and certain of its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), hereby declare under penalty of perjury:

1. I am a Managing Director of Triple P TRS, LLC, a restructuring advisory firm with numerous offices throughout the United States. Triple P TRS, LLC and its service provider

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

the "Termination Notices"), pursuant to which the DLA purported to terminate the orders based on Noble's supposed failure to provide the DLA with adequate assurance of future performance and alleged defaults under the Contracts. True and correct copies of the Termination Notices are attached hereto as **Exhibits D-1** – **D-4**.

17. Noble delivered certain goods to the contractually agreed-upon destinations or provided services to the appropriate party through the date of the DLA's purported termination on August 27, 2026, and the Government retained possession of such goods (the "Pre-Termination Delivery Orders"). For each Pre-Termination Delivery Order of goods, either a representative of the Government signed a receiving report for such goods or Noble obtained proof of delivery from a shipper or freight forwarder. The Government has not raised any defects or nonconformities with respect to the goods and services associated with the Pre-Termination Delivery Orders as of the date hereof. As of the date hereof, the DLA has refused to validate the proof of delivery or provision of services rendered for $14,566,268.02 of Pre-Termination Delivery Orders, thereby preventing Noble from invoicing the DLA for such orders in the WAWF platform.

18. I reviewed the Excel files submitted with the Termination Notices listing the orders purportedly being terminated. Those orders include the Pre-Termination Delivery Orders.

19. Attached hereto as **Exhibit E** is a schedule (the "Schedule") identifying the (i) associated Contract number, (ii) invoice number, (iii) item delivered, (iv) quantity delivered, (v) date of delivery, and (vi) amount due and owing for each Pre-Termination Delivery Order. The information contained in the Schedule was created by using information contained in NetSuite (including source documents), Noble's financial and operational resource tool. The Schedule accurately summarizes the information contained in the company's underlying business records in NetSuite and reflects the amounts due and owing to Noble for the Pre-Termination Delivery

Orders. The underlying records on which the Schedule is based are voluminous and cannot be conveniently examined in court. Noble has made, or will make, those records, including the applicable invoice, proof of delivery, and packing slip for each Pre-Termination Delivery Order available for inspection and examination by the DLA and its counsel at a reasonable time and place for inspection and copying. Based on my review of and familiarity with Noble's records and business operations, I believe that the Schedule is a true and accurate summary of the information contained in the underlying records.

20. The Debtors have forecasted that the DLA would settle invoices in the ordinary course of business for goods delivered and services provided as of (and after) the date the Termination Notices were received. To that extent, the Debtors' liquidity forecast that underpins the Cash Collateral Order[6] (and related budget) assumed that a material portion of the $14,566,268.02 in Pre-Termination Delivery Orders would be paid. Absent an expedited resolution of this issue, I believe that the Debtors will exhaust their liquidity during the first week of November 2026.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Dated: October 6, 2026
Dallas, Texas

/s/ Robert Albergotti
Robert Albergotti
Chief Transformation Officer
Noble Equity Holdings, LLC

[6] *Second Interim Order (I) Authorizing Limited Use of Cash Collateral, (II) Granting Adequate Protection Liens and Superpriority Administrative Expense Claims to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [D.I. 218] (the "Cash Collateral Order").

EXHIBIT A-1

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER: 1000062333

PAGE 1 OF 61

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE
SPE8EJ-21-D-0022	2021 JAN 05		SPE8EJ-18-R-0001	2018 NOV 16

7. FOR SOLICITATION INFORMATION CALL:	a. NAME	b. TELEPHONE NUMBER *(No collect calls)*	8. OFFER DUE DATE/ LOCAL TIME

9. ISSUED BY — CODE: SPE8EJ

DLA TROOP SUPPORT
CONSTRUCTION & EQUIPMENT (SOE)
700 ROBBINS AVENUE
PHILADELPHIA PA 19111-5096
USA
Local Admin: John Cuorato PEPCSF1 Tel: 215-737-4873
Email: DLA-TS-FCCD.Inquiry@dla.mil

10. THIS ACQUISITION IS
- ☐ UNRESTRICTED OR ☒ SET ASIDE: 100 % FOR:
- ☒ SMALL BUSINESS
- ☐ HUBZONE SMALL BUSINESS
- ☐ SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS
- ☐ WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM
- ☐ EDWOSB
- ☐ 8 (A)

NAICS: 339999
SIZE STANDARD:500

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED	12. DISCOUNT TERMS	13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	13b. RATING / 14. METHOD OF SOLICITATION
☒ SEE SCHEDULE	Net 30 days	☐	☐ RFQ ☐ IFB ☒ RFP

15. DELIVER TO — CODE:

SEE SCHEDULE

16. ADMINISTERED BY — CODE: SPE8EJ

SEE BLOCK 9
Criticality: PAS : None

17a. CONTRACTOR/ OFFEROR — CODE: 1HEN9 — FACILITY CODE:

NOBLE SALES CO., INC. DBA Noble Supply and Logistics
302 Weymouth St
ROCKLAND MA 02370-1171
USA

TELEPHONE NO. 7818711911

18a. PAYMENT WILL BE MADE BY — CODE: SL4701

DEF FIN AND ACCOUNTING SVC
BSM
P O BOX 182317
COLUMBUS OH 43218-2317
USA

☐ 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED. ☐ SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	See Schedule				

25. ACCOUNTING AND APPROPRIATION DATA

26. TOTAL AWARD AMOUNT *(For Govt. Use Only)*: $33000000000.00

- ☐ 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED.
- ☒ 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA ☒ ARE ☐ ARE NOT ATTACHED.

☒ 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

☒ 29. AWARD OF CONTRACT: REF. Noble's OFFER DATED 2019-Jan-18. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH, HEREIN IS ACCEPTED AS TO ITEMS: ALL

30a. SIGNATURE OF OFFEROR/CONTRACTOR

31a. UNITED STATES OF AMERICA *(SIGNATURE OF CONTRACTING OFFICER)*

RYAN.MARY.E.1229042420 Digitally signed by RYAN.MARY.E.1229042420 Date: 2021.01.05 18:06:27 -05'00'

30b. NAME AND TITLE OF SIGNER *(Type or Print)*	30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER *(Type or Print)*	31c. DATE SIGNED
		Mary Ryan mary.ryan@dla.mil	2021 JAN 05

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 1449 (REV.
Prescribed by GSA - FAR (48 CFR) 53.212

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED: SPE8EJ-21-D-0022	PAGE 9 OF 61 PAGES

Part 12 Clauses (CONTINUED)

Part 12 Clauses

52.212-4 Contract Terms and Conditions --Commercial Items (OCT 2018) FAR

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (*e.g.,* use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.* (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include --

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

CONTINUED ON NEXT PAGE

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED: SPE8EJ-21-D-0022	PAGE 10 OF 61 PAGES

Part 12 Clauses (CONTINUED)

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.,* 52.232-33, Payment by Electronic Funds Transfer -- System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer --Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment* --(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S. C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall --

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the

CONTINUED ON NEXT PAGE

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED: SPE8EJ-21-D-0022	PAGE 11 OF 61 PAGES

Part 12 Clauses (CONTINUED)

overpayment including the --

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.* (i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions.* The Contracting Officer will issue a final decision as required by 33.211 if --

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on --

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become

CONTINUED ON NEXT PAGE

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED: SPE8EJ-21-D-0022	PAGE 12 OF 61 PAGES

Part 12 Clauses (CONTINUED)

payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

CONTINUED ON NEXT PAGE

EXHIBIT 4-D

United States' Motion to Dismiss, Adv. D.I. 17 at 1–5

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
Noble Supply & Logistics, LLC, *et al.*,	)	Chapter 11
	)	Case No. 26-11369 (CTG)
	)	
Debtors.[1]	)	(Jointly Administered)
	)	
Noble Supply & Logistics, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 26-50885 (CTG)
	)	
	)	
Defense Logistics Agency,	)	Re: Adv. D.I. 1, 3
	)	
Defendant.	)	
	)	

UNITED STATES' MOTION TO DISMISS THE COMPLAINT

The United States of America, on behalf of the Defense Logistics Agency ("DLA"), files this motion (the "Motion") under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), made applicable by Bankruptcy Rule 7012(b), to dismiss both counts of the complaint [Adv. D.I. 1] (the "Complaint") filed by Noble Supply & Logistics, LLC ("Noble"): Count I, which seeks turnover, and Count II, which alleges breach of contract. The argument is set out in Parts I through III of the United States' brief in opposition to Noble's motion for partial summary judgment [Adv. D.I. 3]

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

2611369261020000000000007

and in support of this Motion and its cross-motion for summary judgment (the "U.S. Brief"), which is filed with this Motion as its opening brief under Local Rule 7007-1(a)(i). The governing standards and the grounds for dismissal are summarized below.

STATEMENT REGARDING JURISDICTION, VENUE AND CONSENT

1. Noble alleges that this Court has jurisdiction under 28 U.S.C. §§ 157 and 1334, that this proceeding is core under 28 U.S.C. § 157(b)(2), and that venue is proper in this District under 28 U.S.C. § 1409. Compl. ¶¶ 4–5. The United States disputes that this Court has subject matter jurisdiction over Noble's claims, that Congress waived sovereign immunity for them, and that they are core, for the reasons in Parts I, II, and VII of the U.S. Brief. A federal court "always has jurisdiction to determine its own jurisdiction," *United States v. Ruiz*, 536 U.S. 622, 628 (2002), so this Court may decide this Motion, which rests first on this Court's lack of jurisdiction and on sovereign immunity.

2. Under Bankruptcy Rule 7012(b) and Local Rule 7012-1, the United States states that it does not consent to the entry of final orders or judgment by this Court in this adversary proceeding, and it does not consent by filing this Motion. A claim for breach of a prepetition contract is not core, and calling it turnover does not make it so. U.S. Br. ¶¶ 59–60.

LEGAL STANDARDS

3. **Rule 12(b)(1).** Noble, as the party invoking this Court's jurisdiction, bears the burden of establishing it. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A challenge to jurisdiction may be facial, in which case the court accepts the complaint's well-pleaded allegations as true, or factual, in which case the court may weigh evidence outside the pleadings and "no presumptive truthfulness attaches to plaintiff's allegations." *Mortensen v. First Fed. Sav. & Loan Ass'n*, 549 F.2d 884, 891 (3d Cir. 1977). Sovereign immunity is also

jurisdictional, *FDIC v. Meyer*, 510 U.S. 471, 475 (1994), so Noble must also identify a waiver that is "unequivocally expressed in statutory text" and covers its claims. *Lane v. Peña*, 518 U.S. 187, 192 (1996). This Court must decide these questions before it reaches the merits. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94–95 (1998); U.S. Br. ¶¶ 20, 23.

4. **Rule 12(b)(6).** To survive a motion under Rule 12(b)(6), a complaint must contain "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The court need not accept legal conclusions, and "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.*; U.S. Br. ¶ 21.

GROUNDS FOR DISMISSAL

5. **This Court lacks subject matter jurisdiction over Noble's contract claims.** Noble seeks $18,960,176.31 under two DLA contracts. Compl. ¶¶ 16–17, 29, 38, 55. Both contracts are subject to the Contract Disputes Act (the "CDA"). FAR 52.212-4(d); U.S. Br. ¶ 29. For contract claims against the United States above $10,000, the Tucker Act vests exclusive jurisdiction in the Court of Federal Claims, and for contracts subject to the CDA, the CDA prescribes the only route to judicial review: a claim to the contracting officer, followed by an appeal to a board of contract appeals or the Court of Federal Claims. 28 U.S.C. §§ 1346(a)(2), 1491(a)(1)–(2); 41 U.S.C. §§ 7103(a), 7104(a)–(b). Count II pleads breach of Noble's contracts with DLA, so it is a contract claim on its face. Compl. ¶¶ 48–55. Count I is also a contract claim, although mislabeled as turnover under 11 U.S.C. § 542. Noble's rights derive from the contracts, and it seeks payment of the contract price; therefore, its claims can only be brought through the administrative process and reviewed by the Court of Federal Claims. This Court's jurisdiction

under 28 U.S.C. § 1334(b) does not displace the limits on which forum has jurisdiction over Noble's Complaint. U.S. Br. ¶¶ 23–33.

6. **Noble has not shown that Congress waived sovereign immunity for this suit.** Noble alleges no waiver of sovereign immunity, and none applies. Noble has sued DLA, an organizational entity of the Department of Defense that Congress has not made suable in its own name. Section 106(a) of the Bankruptcy Code does not reach Count II, which pleads breach of contract, or Count I, which is a contract disputes claim not subject to section 542. U.S. Br. ¶¶ 34–40.

7. **Count I states no claim upon which relief can be granted.** Section 542(b) reaches only debts that are matured and not subject to a bona fide dispute. The Complaint's allegation that DLA's obligation is "fixed, matured, presently due, and payable on demand," Compl. ¶ 37, is a legal conclusion that the Complaint's own factual allegations contradict. Noble alleges that the contracts pay only for items accepted, that DLA's validation of a proof of delivery is what authorizes Noble to invoice, and that DLA has refused to validate the deliveries at issue, "thereby preventing Noble from invoicing." Compl. ¶¶ 16–17, 25, 28. Count I's alternative theory under section 542(a) fails for the same reason. Compl. ¶¶ 45–47; U.S. Br. ¶¶ 41–43.

8. **Noble has not presented any claim under the CDA.** In the alternative, even if this Court had jurisdiction, the Complaint fails to state a claim upon which relief can be granted on either count because it does not allege that Noble submitted any claim to the contracting officer, a mandatory step under the CDA. 41 U.S.C. § 7103(a)(1); U.S. Br. ¶ 33.

RESERVATION OF RIGHTS

9. By filing this Motion, the United States does not waive, and expressly preserves, its sovereign immunity, all jurisdictional defenses, its rights of setoff and recoupment, and its right to seek withdrawal of the reference.

WHEREFORE, the United States respectfully requests that this Court enter an order, substantially in the form attached as Exhibit A, granting this Motion, dismissing both counts of the Complaint without prejudice to Noble's pursuit of its claims under the CDA, denying Noble's motion for partial summary judgment and the United States' cross-motion for summary judgment as moot, and granting such other relief as is just.

Dated: October 20, 2026

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General

MARC S. SACKS
Deputy Director

MARY A. SCHMERGEL
Assistant Director

/s/ Ryan W. Lamb
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Attorneys for the United States

EXHIBIT 4-E

United States' Brief, Adv. D.I. 19 at 1–3, 17–26, 31–33, 35–37 (cover, table of contents, Parts I and II, ¶¶ 50–54 of Part V, and Part VII)

et al.

TABLE OF CONTENTS

Mortensen v.

First Fed. Sav. & Loan Ass'n

FDIC v. Meyer

Lane v.

Peña

Ashcroft v. Iqbal

Bell Atl. Corp. v. Twombly

Id.

Celotex Corp. v. Catrett

Anderson v. Liberty Lobby, Inc.

In re Bressman

See Lawrence v. City of Philadelphia

ARGUMENT

I. This Court Lacks Subject Matter Jurisdiction over Noble's Complaint.

Steel Co. v. Citizens for a Better Env't

see Barlow v. Hooper (In re Structurlam Mass Timber U.S., Inc.)

Minnesota v. United States

Clark v. United States

A. Count I Is a Contract Claim Mislabeled as Turnover.

Megapulse, Inc.

v. Lewis

Id.

Compare *with id.*

United States v. Inslaw, Inc.

accord Stanziale v. CopperCom, Inc. (In re Conex Holdings, LLC)

Roberts v. Green Convergence (In re SunPower Corp.)

Green Convergence

See

See Suburban Mortg. Assocs., Inc. v. HUD

Union Pac. R.R. v. United States ex rel. U.S. Army Corps of Eng'rs

See In re New Century TRS Holdings, Inc.

B. The Court of Federal Claims and the CDA Forums Have Exclusive Jurisdiction over Contract Claims Like Noble's.

Hahn v. United States

accord Chabal v. Reagan *McGuire v. United States*

See Dep't of Educ. v. California

see also Arizona v. U.S. Env't Prot. Agency

appeal docketed

Id.

Dalton v. Sherwood Van Lines, Inc.

United Aeronautical Corp. v. U.S. Air Force

McGuire

McGuire

C. Noble Has Not Presented Any Claim Under the CDA.

Quality Tooling, Inc. v. United States

See

McGuire

Quality Tooling *McGuire*

Quality Tooling

see

supra

see

see

II. Congress Has Not Waived Sovereign Immunity for Noble's Suit.

United States v.

Sherwood

Lane

A. Noble Has Not Alleged a Waiver.

See Sherwood *Lane*

Federal Practice and Procedure

B. Congress Has Not Made DLA Suable.

See

Blackmar v. Guerre

See Meyer

Id.

See *infra*

C. Section 106 Does Not Waive Immunity for Noble's Contract Claims.

McGuire

Id.

United States v. Miller

Id.

Id.

See Miller *In re Franklin Sav. Corp.*

see *supra*

See Dep't of the Army v. Blue Fox, Inc.

see *supra* *see* *infra*

III. Count I Must Be Dismissed Because Noble Fails to State a Claim for Turnover.

See United States v. U.S. Fid. & Guar. Co.

id. *See*

See

See

See supra

B. The Parties Dispute Whether the Government Accepted the Disputed Deliveries.

see

at most

see infra

Boyle v. United Techs. Corp.

Pac. Gas & Elec. Co. v. United States

See supra

C. The Parties Dispute Whether the Termination Notices Allowed Payment for the Terminated Orders.

see *supra*

D. Noble's Declaration Conflicts with the Records.

Id.

VII. This Court Could Not Enter a Final Judgment on Noble's Claims.

Halper v. Halper

See

Beard v. Braunstein

see *supra*

See

Liberty Mut. Ins. Co. v. Wetzel

CONCLUSION

/s/ Ryan W. Lamb

Attorneys for the United States

EXHIBIT 4-F

Declaration of John S. Cuorato, Jr., Adv. D.I. 19-2 at 1, 3–6, 9–14 (¶¶ 8–17, signature page, and Schedule 1)

et al.

DECLARATION OF JOHN S. CUORATO, JR. IN SUPPORT OF THE UNITED STATES' RIEF IN OPPOSITION TO MOTION OF NO LE SUPPL LOGISTICS, LLC FOR PARTIAL SUMMAR JUDGMENT AND IN SUPPORT OF ITS MOTION TO DISMISS AND ITS CROSS MOTION FOR SUMMAR JUDGMENT, AND UNDER FED. R. CIV. P. 6(d)

AC GROUND

DLA'S LINE LINE REVIEW OF THE SCHEDULE

Proof of delivery.

Receivin reports.

When oble sent its proof.

Destinations.

Goods receipts.

Dates.

Errors on the Schedule.

Customer records.

THE OCTO ER PRODUCTION

CUORATO.JOHN.S.JR.1386908113

Digitally signed by CUORATO.JOHN.S.JR.1386908113
Date: 2026.10.20 17:58:24 -04'00'

SCHEDULE 1 TO THE DECLARATION OF JOHN S. CUORATO, JR.

Source DLA records. Lines are numbered in the order in which they appear on the Schedule and amounts are as the Schedule lists them. Proof first received is the date DLA first received proof of delivery for the Line. means none.

Line	Invoice	Delivery order	CLIN	Amount	Schedule date	Terminated	Proof first received	Proof type	Proof acceptable	Goods receipt	WAWF invoice	Notes

Line	Invoice	Delivery order	CLIN	Amount	Schedule date	Termi nated	Proof first received	Proof type	Proof accept able	Goods receipt	WAWF invoice	Notes

Line	Invoice	Delivery order	CLIN	Amount	Schedule date	Termi nated	Proof first received	Proof type	Proof accept able	Goods receipt	WAWF invoice	Notes

Line	Invoice	Delivery order	CLIN	Amount	Schedule date	Termi nated	Proof first received	Proof type	Proof accept able	Goods receipt	WAWF invoice	Notes

Line	Invoice	Delivery order	CLIN	Amount	Schedule date	Termi nated	Proof first received	Proof type	Proof accept able	Goods receipt	WAWF invoice	Notes
	Total (1 Lines)			1 , 66,26 . 2								

EXHIBIT 4-G

United States' Cross-Motion for Summary Judgment, Adv. D.I. 23 at 1–6

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
Noble Supply & Logistics, LLC, *et al.*,	)	Chapter 11
	)	Case No. 26-11369 (CTG)
	)	
Debtors.[1]	)	(Jointly Administered)
	)	
Noble Supply & Logistics, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 26-50885 (CTG)
	)	
	)	
Defense Logistics Agency,	)	Re: Adv. D.I. 1, 3
	)	
Defendant.	)	
	)	

UNITED STATES' CROSS MOTION FOR SUMMAR JUDGMENT

The United States of America, on behalf of the Defense Logistics Agency ("DLA"), files this cross-motion (the "Cross-Motion") under Federal Rule of Civil Procedure 56(a), made applicable by Bankruptcy Rule 7056, for summary judgment on both counts of the complaint [Adv. D.I. 1] (the "Complaint") filed by Noble Supply & Logistics, LLC ("Noble"): Count I, which seeks turnover, and Count II, which alleges breach of contract. The United States makes this Cross-Motion in the alternative to its motion to dismiss the Complaint [Adv. D.I. 17] (the "Motion to

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

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Dismiss"). The argument is set out in Parts I, II, and IV of the United States' brief in opposition to Noble's motion for partial summary judgment [Adv. D.I. 3] (the "U.S. Brief"), which supports this Cross-Motion as its opening brief under Local Rule 7007-1(a)(i). The governing standards and the grounds for summary judgment are summarized below.

LEGAL STANDARDS

1. **Rule 6.** Summary judgment is appropriate if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). The court believes the nonmovant's evidence and draws all justifiable inferences in its favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). When both sides move for summary judgment, the court considers each motion on its own. *See Lawrence v. City of Philadelphia*, 527 F.3d 299, 310 (3d Cir. 2008); U.S. Br. ¶ 22.

2. **Jurisdiction and sovereign immunity.** If a court "determines at any time that it lacks subject-matter jurisdiction," it "must dismiss the action." Fed. R. Civ. P. 12(h)(3); Fed. R. Bankr. P. 7012(b). The United States may therefore raise this Court's lack of jurisdiction, and sovereign immunity, which is also jurisdictional, *FDIC v. Meyer*, 510 U.S. 471, 475 (1994), on summary judgment as well as by motion to dismiss. Noble bears the burden of establishing jurisdiction, *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994), and it must identify a waiver of immunity that is "unequivocally expressed in statutory text." *Lane v. Peña*, 518 U.S. 187, 192 (1996). A dismissal for lack of jurisdiction does not operate as an adjudication on the merits. Fed. R. Civ. P. 41(b); Fed. R. Bankr. P. 7041.

STATEMENT REGARDING JURISDICTION, VENUE AND CONSENT

3. Noble alleges that this Court has jurisdiction under 28 U.S.C. §§ 157 and 1334, that this proceeding is core under 28 U.S.C. § 157(b)(2), and that venue is proper in this District under

28 U.S.C. § 1409. Compl. ¶¶ 4–5. The United States disputes that this Court has subject matter jurisdiction over Noble's claims, that Congress waived sovereign immunity for them, and that they are core, for the reasons in Parts I, II, and VII of the U.S. Brief. A federal court "always has jurisdiction to determine its own jurisdiction," *United States v. Ruiz*, 536 U.S. 622, 628 (2002), so this Court may decide this Cross-Motion, which rests first on this Court's lack of jurisdiction and on sovereign immunity.

4. Under Bankruptcy Rule 7012(b) and Local Rule 7012-1, the United States states that it does not consent to the entry of final orders or judgment by this Court in this adversary proceeding, and it does not consent by filing this Cross-Motion. If this Court grants this Cross-Motion and concludes that the proceeding is not core, it should submit proposed findings of fact and conclusions of law to the district court. 28 U.S.C. § 157(c)(1); Fed. R. Bankr. P. 9033; U.S. Br. ¶¶ 59–60.

GROUNDS FOR SUMMAR JUDGMENT

5. **oth counts fail for lack of jurisdiction and sovereign immunity.** Both counts of the Complaint seek payment under two DLA contracts subject to the Contract Disputes Act (the "CDA"). Compl. ¶¶ 16–17, 29, 38, 55; FAR 52.212-4(d). Count II pleads breach of those contracts, and Count I is a contract claim labeled as turnover. The Court of Federal Claims and the boards of contract appeals have exclusive jurisdiction over such claims, and Congress has not waived the United States' sovereign immunity for contract claims in this court. U.S. Br. ¶¶ 23–40. Those grounds rest on the Complaint, the contracts, and the governing statutes, not on any disputed fact. U.S. Br. ¶ 44.

6. **Noble has never submitted a claim to the contracting officer.** The CDA requires that "[e]ach claim by a contractor against the Federal Government relating to a contract shall be

submitted to the contracting officer for a decision." 41 U.S.C. § 7103(a)(1). Noble has not submitted a claim for any amount it seeks here, and it has not appealed DLA's termination notices. Declaration of John S. Cuorato, Jr., filed with the U.S. Brief (the "Cuorato Declaration"), ¶ 7. Noble does not allege otherwise, and its proofs of delivery and spreadsheet submitted with its motion for partial summary judgment are not claims. U.S. Br. ¶ 33. Because Noble has not taken that mandatory step, the United States is entitled to judgment on both counts. U.S. Br. ¶ 44.

7. **Count I also fails because the debts Noble seeks are disputed and unmatured.** Section 542(b) reaches only a debt "that is matured, payable on demand, or payable on order," and a debtor cannot use turnover to liquidate a disputed contract claim. U.S. Br. ¶¶ 25, 42. Noble concedes that DLA has not validated its proofs of delivery for the deliveries at issue and that, as a result, Noble cannot invoice them. Compl. ¶¶ 17, 25, 28; Noble's Opening Brief [Adv. D.I. 4] ("Noble Br.") ¶¶ 28, 58; Declaration of Robert Albergotti [Adv. D.I. 5] ("Albergotti Decl.") ¶ 17. It contends that DLA's terminations of the orders were "ineffective," Noble Br. ¶ 56, while admitting that the orders appear on the spreadsheets attached to DLA's termination notices. Albergotti Decl. ¶ 18. Those admissions establish bona fide disputes over DLA's liability. They also show that the debts have not matured, because payment under the contracts depends on acceptance and a proper invoice. FAR 32.904(b)(1); U.S. Br. ¶¶ 45–47. The only exceptions are five deliveries on fast payment orders, which Noble invoiced on October 2, 2026, and which DLA has scheduled for payment. Cuorato Decl. ¶ 14; U.S. Br. ¶¶ 18, 47. On this ground, the United States seeks judgment on Count I except as to those five deliveries.

8. **No discovery is needed to decide this Cross Motion.** The facts on which this Cross-Motion rests come from Noble's own Complaint, brief, and declaration, and from the absence of any claim to the contracting officer, a fact within Noble's own knowledge. The United

States therefore needs no discovery to rely on them, and its showing under Rule 56(d) in opposition to Noble's motion does not affect this Cross-Motion. U.S. Br. ¶ 45.

RESERVATION OF RIGHTS

9. By filing this Cross-Motion, the United States does not waive, and expressly preserves, its sovereign immunity, all jurisdictional defenses, including those raised in the Motion to Dismiss and the U.S. Brief, its rights of setoff and recoupment, and its right to seek withdrawal of the reference. If this Court concludes that it lacks jurisdiction over a count or that sovereign immunity bars it, the proper order on that count is the dismissal without prejudice that the Motion to Dismiss requests. Fed. R. Civ. P. 12(h)(3); U.S. Br. ¶ 44.

WHEREFORE, the United States respectfully requests that this Court enter an order, substantially in the form attached as Exhibit A, granting this Cross-Motion and entering judgment for the United States on Counts I and II of the Complaint, or at least on Count I except as to the five deliveries described in paragraph 14 of the Cuorato Declaration, or, to the extent 28 U.S.C. § 157(c)(1) applies, submitting proposed findings of fact and conclusions of law to that effect, and granting such other relief as is just.

Dated: October 21, 2026

Respectfully submitted,

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EXHIBIT 4-H

Supplemental Letters of Noble and the United States, Adv. D.I. 41, 42

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Wilmington, DE 19801
302.652.3131 302.652.3117 fax

New Jersey
New York
Maryland
Texas
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100 YEARS COLE SCHOTZ P.C.

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Reply to Delaware Office
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October 30, 2026

Honorable Craig T. Goldblatt, U.S.B.J.
824 North Market Street
5th Floor, Courtroom 5
Wilmington, DE 19801

Re: Noble Supply & Logistics, LLC v. Defense Logistics Agency
Adv. Proc No. 26-50885 (CTG) (Bankr. D. Del.)

Dear Judge Goldblatt:

On behalf of Debtor Noble Supply & Logistics, LLC ("Noble"), and further to Your Honor's direction at the October 28 hearing on the *Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment* [Adv. D.I. 3] (the "Summary Judgment Motion"),[1] Noble respectfully submits this post-hearing letter brief to address certain questions raised by the Court and to identify the portions of the evidentiary record applicable to the relevant arguments raised in opposition to the Summary Judgment Motion.

Summary of Evidence

In support of the Summary Judgment Motion, Noble submitted the *Declaration of Robert Albergotti* [Adv. D.I. 5] (the "Albergotti Declaration") along with the following exhibits: (A) the Contracts (Exhibits A-1 through A-2); (B) the Cure Notices (Exhibits B-1 through B-8); (C) the responses to the Cure Notices (Exhibits C-1 through C-8); (D) the Termination Notices (Exhibits D-1 through D-4); and (E) a schedule (the "Albergotti Schedule") (Exhibit E). The Albergotti Schedule was prepared utilizing the company's records, which the Court held at the hearing was likely admissible as a voluminous records compilation under FRE 1006 for purposes of summary judgment. The Albergotti Schedule sets forth prima facie evidence that each of the Pre-Termination Delivery Orders was delivered on or before August 27, 2026 (the "Termination Date").

In opposition, the Government submitted the *Declaration of John S. Cuorato, Jr.* [Adv. D.I. 19-2] (the "Cuorato Declaration"), including its Schedule 1 (the "Cuorato Schedule") and Exhibits A-1 – A-11 consisting of certain documents Noble produced to the Government. The

[1] All capitalized terms not otherwise defined herein have the meaning in Noble's brief in support of the Summary Judgment Motion [Adv. D.I. 4].

Cuorato Schedule numbered the Pre-Termination Delivery Orders listed in the Albergotti Schedule by line items 1-108. For convenience, we will address each order by reference to line items 1-108. The Cuorato Declaration contains what it calls a "line-by-line" review of the Albergotti Schedule and raises eight separate categories of objections, found at paragraphs 9-17. The eight objections raised in the Cuorato Declaration were a focal point of the dialogue at the hearing.

In support of its reply, Noble submitted the supplemental transmittal declaration of Mr. Albergotti, which attached five exhibits (A, B-1, B-2, C-1, and C-2) [Adv. D.I. 36] (the "Transmittal Declaration"). As detailed in Noble's reply brief [Adv. D.I. 35] (the "Reply"), except for Exhibit A, which was simply a correction of the proof of delivery for line item 48, these exhibits were contained in Noble's production of documents used to compile the Albergotti Schedule that was made to the Government on October 7, 2026 pursuant to FRE 1006.

The Government's Eight Objections

Many of the 108 line items in the Cuorato Schedule are subject to overlapping objections. Thus, as discussed at the hearing, we believe the best approach is to address each of the eight objections in turn to determine, in the end, which line items should be included in the final turnover order after ruling on the respective objections. Below we address these eight objections with specific references to the record, as requested by the Court, and provide further analysis of the open legal issues, as applicable. For the Court's convenience, we enclose a chart as **Exhibit A** summarizing the line items associated with each objection.

Proof of Delivery (Cuorato Decl. ¶ 9)

The Government asserts that Noble's proof of delivery was insufficient for 73 Pre-Termination Delivery Orders. The line items associated with this objection are not expressly identified in the Cuorato Declaration, but they are evidenced by the 73 lines containing a "No" in the "Proofs Acceptable" column of the Cuorato Schedule. The Court ruled at the hearing that a conclusory objection to the sufficiency of Noble's proof of delivery, without further explanation, does not give rise to a material factual or *bona fide* dispute.[2] As such, the generic and conclusory objections to the proofs of delivery at the end of paragraph 9, as well as the mere notation of the word "No" in the "Proofs Acceptable" column of the Cuorato Schedule, are insufficient to overcome Noble's prima facie showing that the goods and services were delivered on the dates specified in the Albergotti Schedule.

In addition to paragraph 9, paragraph 20 of the Cuorato Declaration alleges that "DLA questioned or rejected some of Noble's proofs of delivery." Cuorato Decl., ¶ 20 (citing Exhibits A-1 through A-3 thereto). The Cuorato Declaration does not identify which line items these three e-mails correspond to, but in reviewing the invoice numbers, Noble was able to determine that Exhibit A-1 relates to line items 1-6, A-2 relates to line item 10, and A-3 relates to line item 8. Those e-mails show that Noble sent corrected proofs of delivery in response to the DLA's inquiries, and the Government submitted no evidence that the corrected documentation failed to

[2] Hr'g Tr. 136:7-15 (Oct. 28, 2026).

address the DLA's issues or was otherwise insufficient. In fact, the Cuorato Schedule provides that the proofs of delivery for the line items associated with Exhibits A-1 (line items 1-6) and A-2 (line item 10) were ultimately acceptable. Thus, it does not appear that the Government is raising these challenges to dispute the sufficiency of the proofs of delivery. The only line item that appears to have not been resolved by these e-mails is line item 8 (associated with Exhibit A-3), but even as to this, the declaration provides no explanation as to *why* the delivery was unacceptable and therefore does not give rise to a *bona fide* dispute. As such, the Court should treat the "No" in the "Proofs Acceptable" column for line 8 the same as the others. The attachment of Exhibit A-2 does not change that outcome, because no explanation as to the problem with the corrected proof of delivery was provided.

Receiving Reports (Cuorato Decl. ¶ 10)

The Government next asserts that Noble provided a receiving report for 21 of the 108 Pre-Termination Delivery Orders. The Government further claims, again without explanation, that Noble provided insufficient proof of delivery for 71 of the remaining 87 proof of delivery orders. These 71 orders overlap entirely with the 73 Pre-Termination Delivery Orders referenced above, as the Government objects to two of the 21 receiving reports as well (totaling the same 73 line items objected to in paragraph 9, as discussed above).

The Government conceded at the hearing that Noble is not legally required to provide a receiving report in order to be entitled to payment on a delivery order, and that a receiving report is only relevant to a claim for payment of interest, which Noble is not seeking.[3] In other words, whether the proofs of delivery came from shippers or the customer receiving report has no legal significance with respect to Noble's right to payment. Thus, while it is not clear if the Government intended for paragraph 10 to raise an independent objection to the one raised in paragraph 9, at best paragraph 10 raises the same conclusory challenges to proofs of delivery that the Court has already rejected.

When Noble Sent its Proof (Cuorato Decl. ¶ 11)

As an initial matter, the Court ruled at the hearing that it would order turnover regarding line items 1-6, 23-25, 27-31, 51, and 56 because the proofs of delivery for those line items were provided on or before the Termination Date and were acceptable to the Government. Noble proposes to include all line items for which turnover is ultimately ordered in a single order granting summary judgment, rather than requesting that the Court enter multiple turnover orders.

The vast majority of Noble's proofs of delivery were provided after the Termination Date, but more than 30 days prior to the date hereof. At the hearing, counsel for the Government represented that the date in the Cuorato Schedule under the column "Proof first received" represents either the date acceptable proof was submitted or, where the DLA deemed proof unacceptable, the first date by which proof of delivery was submitted.

[3] Hr'g Tr. 78:17-79:5 (Oct. 28, 2026).

The Court reserved decision on whether Noble's submission of proof of delivery after the Termination Date has any impact on its right to payment of orders the Government concedes were delivered prior to the Termination Date. The Court asked for post-hearing submissions on this issue. For the reasons set forth below, the Court should reject the Government's argument that Noble has no right to be paid for Pre-Termination Delivery Orders where it provided proof of delivery after the Termination Date.

To support its position that the Government does not have to pay for Pre-Termination Delivery Orders that were not "receipted" by the Termination Date, counsel for the Government relied on FAR 52.212-4(m), which governs "Commercial Items" and provides in relevant part that "[i]n the event of termination for cause, the Government shall not be liable to the Contractor for any amounts for supplies or services not accepted …."[4] As the Court properly observed at the hearing, this provision says nothing about what acceptance actually means.

Both Contracts incorporate FAR 52.212-4 *in its entirety*[5] and that section therefore controls on the issue of what constitutes acceptance. Acceptance is specifically addressed in FAR 52.212-4(a), titled *Inspection/Acceptance*, which was discussed in the parties' briefs.[6] Under FAR 52.212-4(a), "[t]he Contractor shall only tender for acceptance those items that conform to the requirements of this contract."[7] In the event the Government determines the goods or services are defective or nonconforming, FAR 52.212-4(a) provides the Government with the *post-acceptance* rights to: (i) require repair or replacement at no additional cost; or (ii) if that is not possible, accept the nonconforming goods for a lower price or seek adequate consideration for its acceptance of nonconforming supplies.[8] The Government is required to exercise its *post-acceptance* rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.[9]

The rationale behind FAR 52.212-4(a)'s acceptance regime is explained in FAR 12.402(a):

> The acceptance paragraph in 52.212–4 is based upon the *assumption that the Government will rely on the contractor's assurances* that the commercial product or commercial service tendered for acceptance conforms to the contract requirements. … Additionally, although the paragraph does not address the issue of rejection, the Government always has the right to refuse acceptance of nonconforming items. *This paragraph is generally appropriate*

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4 48 C.F.R. § 52.212-4(m).

5 Albergotti Decl., Ex. A-1 at p. 10 of 205, Ex. A-2 at p. 72 of 205.

6 *See* Adv. D.I. 4, ¶ 41; Adv. D.I. 19, ¶ 50.

7 48 C.F.R. § 52.212-4(a).

8 *Id.*

9 *Id.*

> *when the Government is acquiring noncomplex commercial products or commercial services.*[10]

The Government asserts that an affirmative act is required for acceptance under the Contracts. This is plainly incorrect. As FAR 12.402(a) explains in relation to 52.212-4, the Government's acceptance of the noncomplex commercial goods at issue here is *assumed* because the Contracts expressly incorporate FAR 52.212-4 without modification, and the Government is therefore bound to rely on Noble's assurances that the goods and services are conforming for purposes of acceptance, subject to the Government's right to refuse delivery or assert post-acceptance rights as to non-conforming goods (neither of which were exercised here as to any Pre-Termination Delivery Order). As such, the Court should overrule the Government's argument that acceptance under the Contracts is conditioned upon the Government's affirmative act of "receipting" Noble's proofs of delivery prior to termination. Any other holding would render meaningless the assumed acceptance process under FAR 52.212-4, as expressly incorporated by the Contracts.

Here, the Government has accepted the Pre-Termination Delivery Orders because it has not even attempted to demonstrate that the Government refused delivery of non-conforming goods. Nor could it. As set forth in the Albergotti Declaration, "[t]he Government has not raised any defects or nonconformities with respect to the goods and services associated with the Pre-Termination Delivery Orders as of the date hereof [October 6, 2026]."[11] The Government presented no evidence to the contrary.[12] Thus, the Court must find that the Government is, in fact, presumed to have accepted upon delivery.[13]

For the foregoing reasons, the Court should hold that the administrative act of providing proofs of delivery after the Termination Date has no bearing on Noble's right to payment.

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[10] 48 C.F.R. § 12.402(a) (emphasis added).

[11] Albergotti Decl., ¶ 17.

[12] There was a substantial amount of discussion at the hearing about the text of the Termination Notices themselves. To be clear, they do not contradict the terms of Contracts or the FAR on the issue of Noble's right to payment for deliveries made through the Termination Date. The notices expressly address how deliveries made *after* the date of the notice would be handled. And while the Termination Notices do not expressly say how deliveries through the Termination Date would be addressed, as the Court recognized at the hearing, they certainly imply that they would be processed and paid for in the ordinary course under the terms of the Contracts.

[13] In the alternative, the Court should hold that the Government impliedly accepted the Pre-Termination Delivery Orders. *See* Reply [Adv. D.I. 35, ¶ 17] (discussing FAR 46.407(g)). At the hearing and in the briefing, the parties discussed the concept of implied acceptance under part 46 of the FAR. *See* Opposition, ¶ 52; Reply, ¶ 17. Noble respectfully submits that the Court does not need to reach the concept of implied acceptance due to the inclusion and direct applicability of FAR 52.212-4(a) in the Contracts. While the concept of implied acceptance is helpful guidance to highlight the Government's failure to timely reject, part 46 of the FAR does not govern the Contracts given their express incorporation of part 12 (*i.e.*, 52.212-4). Under part 12 of the FAR, acceptance is effective upon delivery unless refused, with the Government having post-acceptance rights to address non-conformities, as discussed *infra*. But even if part 46 did apply here, the Government's inaction post-delivery constitutes implied acceptance, as detailed in Noble's reply brief.

Destinations (Cuorato Decl. ¶ 12)

Even post-acceptance, as stated in the Albergotti Declaration, "[t]he Government has not raised any defects or nonconformities with respect to the goods and services associated with the Pre-Termination Delivery Orders as of the date hereof [October 6, 2026]." Adv. D.I. 5, ¶ 17. Since October 6, 2026, when the Summary Judgment Motion was filed, the Government still has not raised any post-acceptance nonconformities.

In fact, the only substantive issue raised to any of the orders relates to delivery destinations that are purportedly inconsistent with the destinations provided for in the contract orders (line items 48, 79, 82-84, and 91-93). The Government's evidence is limited to its contention that "DLA has approved none of these changes." Adv. D.I. 19-2, ¶ 12. Importantly, the Government makes no contention that these orders were not delivered by Noble, that it refused delivery of any such order, or that the goods are not currently in the Government's possession. And while Noble disagrees with the Government's contention that it did not approve destination changes, resolution of this factual issue is not necessary, and turnover is appropriate. For the reasons discussed above, the Government was presumed to accept the deliveries under FAR 52.212-4(a) (as explained in FAR 12.402(a)). Moreover, the Government has presented no evidence that it exercised any post-acceptance rights in a reasonable period of time (or at all) after delivery (such as to request redelivery to a different destination). As the Government has not (and cannot) present any evidence showing that Noble failed to correct any delivery destination the Government requested post-acceptance, the Government has not (and cannot) establish any basis to obtain a post-acceptance price reduction due to Noble's failure to redeliver the goods to a different address.

Indeed, evidence in the record demonstrates that the Government used certain goods the DLA claims were improperly delivered to Fort Bragg, North Carolina. Exhibit A-7 to the Cuorato Declaration attaches a September 3, 2026 email from an employee at Anduril (one of Noble's vendors) to a member of the 82nd Airborne Division requesting confirmation that the Government received the goods associated with line items 82-84, which were delivered to Fort Bragg on August 24, 2026. In response, the member of the 82nd Airborne Division states "I am confirming receipt for the below that *supported the 82nd event at Ft. Bragg*." This is more than sufficient to demonstrate acceptance under FAR 52.212-4(a).

Similarly, an email from the DLA attached to the Cuorato Declaration as Exhibit A-6 demonstrates that the DLA expressly approved the address change for line item 92. That email provides:

> These additional DODAAC changes *are approved. As these are only address changes, an additional formal mod should not be needed. Please use this email as authorization to ship* the following to the below approved DODAACs:
>
> 1. SPE8EJ21D1022 - SPE8EL26FW06X (CLIN 0001) Part# 1602765 from DODAAC W91ZKV to W81UHH.

2. SPE8EJ21D1022 - SPE8EL26FW06Y (CLIN 0007) Part# 1602769 from DODAAC W81UHH to W91ZKV.

The second item in the email corresponds exactly to line item 92 in the Cuorato Schedule, as it contains the same Delivery Order Number (SPE8EL26FW06Y) and CLIN (7). Accordingly, the record demonstrates the DLA accepted the address change for this order and there can be no *bona fide* dispute to the contrary.

Finally, Exhibit A to the transmittal Declaration provides a corrected proof of delivery for line item 48 demonstrating that the item in question was in fact delivered to Cannon Air Force Base, New Mexico.

Goods Receipts (Cuorato Decl. ¶¶ 13-14)

The Government asserts that it has only posted a goods receipt for nine Pre-Termination Delivery Orders. As explained above, the Government accepted the goods and services underlying the Pre-Termination Delivery Orders upon delivery, and posting a goods receipt is not a condition to Noble's right to payment. Accordingly, the Government's failure to post a goods receipt does not give rise to a *bona fide* dispute as to Noble's right to payment for the remaining 99 delivery orders.

The Government indicates that four of the nine orders for which a goods receipt was posted were not subject to the Termination Notices (line items 8, 9, 86, and 108). Noble has not located these goods receipts and thus asks the Court to include these line items in the summary judgment order in an abundance of caution to the extent Noble is otherwise not able to submit invoices. Noble has also confirmed that the remaining five orders were recently paid (line items 7, 54, and 60-62). Accordingly, Noble does not intend to seek payment on account of the nine orders for which the DLA posted a goods receipt through the Summary Judgment Motion.

Dates (Cuorato Decl. ¶ 15)

The Government identifies certain discrepancies between the delivery date indicated on the Schedule attached to the Albergotti Declaration, on the one hand, and the delivery date indicated in either the DLA's records or the October 7 Production, on the other hand, for 26 Pre-Termination Delivery Orders. The DLA did not attach any of its own records to the Cuorato Declaration and relies solely on certain documents contained in the October 7 Production to support its objection. The Government's issues with Noble's delivery dates are either based on a misreading of the relevant delivery documents or are immaterial to Noble's right to payment.

The Government organizes the alleged date discrepancies into three buckets (denoted as (a), (b), and (c) in Paragraph 15 of the Cuorato Declaration). Bucket (a) includes nine delivery orders (line items 9, 27-31, 52, 59, and 90) for which the proofs of delivery Noble provided to the DLA show a later date. The "Notes" column in the Cuorato Schedule for these line items shows a delivery date on or before the August 27, 2026 termination date. Because these delivery orders were all fulfilled prior to termination, the date discrepancies do not give rise to a *bona fide* dispute as to Noble's right to payment.

Bucket (b) includes two orders (line items 83 and 84) that the Government claims were fulfilled post-termination on September 4, 2026 based on a bullet point in an email attached to the Cuorato Declaration as Exhibit A-5. However, the packing slip and proof of delivery attached to that email—which Noble included in the October 7 Production and which are attached to the Transmittal Declaration as Exhibits B-1 and B-2, respectively—confirm that the goods underlying these orders were in fact delivered on August 24, 2026. An errant statement in an email from a Noble employee does not create a *bona fide* dispute when the date of delivery is clear on the face of the actual delivery documents.

Bucket (c) includes fifteen orders (line items 94-108) that were included in a folder in the October 7 Production titled "Delivery Aug 28 + After." The "Notes" column in the Cuorato Schedule for these orders confirms that the Government's objection is limited to the production folder in which the delivery documents were placed, rather than any assertion that the delivery orders were actually fulfilled post-termination. Had the Government raised a substantive objection to the actual date of delivery for these orders, Noble would have included the underlying delivery documents in the Transmittal Declaration. However, a mere objection to the production folder in which the delivery documents appear, by itself, does not give rise to a *bona fide* dispute as to the underlying delivery date.

Errors on the Schedule (Cuorato Decl. ¶ 16)

The Government identifies supposed errors involving four Pre-Termination Delivery Orders. The Government organizes these orders into three buckets (denoted as (a), (b), and (c) in Paragraph 16 of the Cuorato Declaration).

Bucket (a) includes two orders (line items 63 and 68) for which the Government alleges Noble double-billed the Government. But, in fact, the proofs of service—which were produced to the Government in the October 7 Production and subsequently attached to the Transmittal Declaration as Exhibits C-1 and C-2—show that these orders were for two separate training courses (one was held on August 13 and 14, 2026 and the other was held on August 17 and 18, 2026).

Bucket (b) includes a single order (line item 9) for which the Government alleges a discrepancy between the quantity delivered in the Schedule and the quantity identified on the packing slip. That is because this particular delivery order contained a mix of physical products and training services, and the Schedule only lists the physical product, while the packing slip lists both.

Bucket (c) also includes a single order (line item 10) for which the Government alleges a $1,200 pricing discrepancy between the Schedule and a transaction document for one delivery order. While Noble believes the higher amount listed in the Schedule is correct, Noble will accept the lower amount on account of this delivery order given the *de minimis* amount at issue.

Customer Records (Cuorato Decl. ¶ 17)

The Government indicates the customers that received the Pre-Termination Delivery Orders keep their own receiving and inspection records at more than 30 locations, including bases in Germany, Japan, and South Korea. Though not expressly framed as such, the Government's observation appears to be aimed at establishing a right to further discovery under Rule 56(d). At the Hearing, the Court indicated that it is disinclined to treat the Government's request for discovery as a dispute.[14] The Court's instinct is, of course, correct.

Any claim that a proposed fishing expedition would somehow uncover evidence that Noble did not in fact deliver the goods or provide the services underlying the Pre-Termination Delivery Orders, or that the Government did not in fact accept them, is purely speculative, and cannot establish a right to Rule 56(d) relief.[15] The Government's request for discovery is particularly futile here because, under FAR 52.212-4(a) discussed *supra*, it accepted the goods and services upon delivery, and there is no discovery the Government could hope to uncover to undo that acceptance.

Moreover, the information the Government purportedly seeks is already in its possession, custody, or control. Indeed, most if not all the documents referenced in Paragraphs 21-27 of the Cuorato Declaration, such as bills of lading, proof of delivery, and packing slips, were already provided to the Government through the October 7 Production. The Government has provided no explanation as to why it has been unable to obtain any additional documents supposedly needed to validate Noble's deliveries in the more than 60 days since the Pre-Termination Delivery Orders were fulfilled or indicated that it has made any effort to do so.[16]

Accordingly, the Government has failed to show that additional discovery would aid the Government in opposing summary judgment or that it acted diligently in pursuing its purported discovery needs, and its request for Rule 56(d) relief should be denied.

Maturity of the Debt

As set forth above, Noble has established that it delivered the goods and provided the services underlying the Pre-Termination Delivery Orders on or before the Termination Date. Under the FAR, the Government also accepted such goods and services upon delivery and in fact has not even purported to attempt to reject any such deliveries on the basis of a non-conformity or defect. Accordingly, Noble has established its contractual right to payment. Only one question

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[14] *See* Hr'g Tr. 79:23-80:9 (Oct. 28, 2026).

[15] *See Paddington Partners v. Bouchard*, 34 F.3d 1132, 1138 (2d Cir. 1994) (denying Rule 56(d) relief where the request rested on speculation that further discovery might uncover evidence creating a triable issue).

[16] *See McGoveran v. Amazon Web Servs., Inc.*, 175 F.4th 434, 441 n.2 (3d Cir. 2026) ("The District Court's refusal to postpone summary judgment under Federal Rule of Civil Procedure 56(d) was not an abuse of discretion, given Plaintiffs' failure to conduct diligent discovery."); *see also Koplove v. Ford Motor Co.*, 795 F.2d 15, 18 (3d Cir. 1986) ("Movant[s] under Rule 56[ ] must have used discovery mechanisms in timely fashion ... a request for relief under Rule 56[ ] is extremely unlikely to succeed when the party seeking the delay has failed to take advantage of discovery" (cleaned up)).

remains: is Noble's right to payment matured? That question should be answered in the affirmative.

A debt is "matured" for turnover purposes where it is "presently payable, as opposed to … contingent and [] payable only upon the occurrence of a certain act or event."[17] Here, Noble's right to payment of the Pre-Termination Delivery Orders is not contingent on any future act or event, as its contractual performance obligations were complete upon delivery.[18]

The Government argues that Noble's right to payment is not "matured" because Noble has not invoiced the DLA for the Pre-Termination Delivery Orders.[19] In its opposition to summary judgment, the Government cites the Prompt Payment Act, which provides that payment is on the later of 30 days after (a) receipt of a proper invoice or (b) acceptance.[20] As Noble has made clear throughout this proceeding, Noble is *unable* to invoice the DLA due solely to the DLA's refusal to validate the orders for which proofs of delivery have been provided. The Court correctly recognized at the hearing that the Government's failure to take a ministerial step to trigger Noble's right to payment is insufficient to render a debt unmatured for turnover purposes.[21] That is precisely what happened here.

The DLA's refusal to accept Noble's invoices is rooted in the untenable legal position that it is not required to engage in the ordinary course reconciliation process for *any* orders subject to the Termination Notices—including the Pre-Termination Delivery Orders, all of which were fully performed on the August 27, 2026 termination date.

As demonstrated by the column in the Cuorato Schedule titled "Proof first received", Noble provided the Government with proof of delivery for each Pre-Termination Delivery Order at least 30 days ago. Had the Government performed its obligations to validate delivery and allowed Noble to invoice, payment for the Pre-Termination Delivery Orders would indisputably be due and owing (*i.e.*, matured).

The Government's unjustified refusal to accept invoices for payment is tantamount to refusing to pay an amount that is due by the ministerial act of blocking the payment process.

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[17] *In re MF Glob. Inc.*, 531 B.R. 424, 438 (Bankr. S.D.N.Y. 2015).

[18] *See In re: Polished.com Inc.*, No. 24-10353 (TMH), 2026 WL 2547238, at *5 (Bankr. D. Del. Aug. 27, 2026) ("[T]urnover is available where 'all acts necessary to create the debt have occurred, such as delivery of goods or performance of services,' even if the defendant disputes that anything is ultimately owed."); *In re Kids World of Am., Inc.*, 349 B.R. 152, 164 (Bankr. W.D. Ky. 2006) ("The Plaintiff provided the services and expected monthly payments in return for those services. There is no future event or act that it needed to make this money due and owing; the Plaintiff has provided its consideration. This case, therefore, presents a valid claim for turnover as contemplated under 11 U.S.C. § 542.").

[19] Hearing Tr. 80:18-81:2 (Oct. 28, 2026).

[20] Opposition, ¶ 52 (citing 31 U.S.C. § 3903).

[21] *Id.* at 102:17-24 ("If there is evidence in the record that the debt didn't mature because there's a bona fide dispute about what your obligations are, then I'm inclined to say it hasn't matured. If the reason the debt hasn't matured is simply because the Government hasn't taken a ministerial step that it's legally obligated to take, then I'm less inclined to say that's an unmatured debt.").

COLE SCHOTZ P.C.

Summary judgment should be granted in favor of Noble as to all Pre-Termination Delivery Orders that have not been resolved by other means.[22]

Conclusion

Noble respectfully requests that the Court grant summary judgment on turnover with respect to all line items except lines 7, 54, and 60-62. Given the Court's preliminary ruling as to jurisdiction on Count II, Noble further requests that the Court order a without prejudice dismissal of all orders that are not part of the summary judgment order, such that the adversary proceeding would be fully resolved by the summary judgment order and the order would be final.

Respectfully submitted,

/s/ G. David Dean

G. David Dean

[22] As set forth in the section above titled "Goods Receipts," Noble is not seeking payment of Lines 7, 8, 9, 54, 60-62, 86, and 108 through the Summary Judgment Motion.

EXHIBIT A

Government's Objection	Relevant Line Items
Proof of Delivery (Cuorato Decl., ¶ 9)	7, 10, 16-22, 26, 33-50, 54-55, 59-62, 65-67, 70-75, 77-80, 82-107
Receiving Reports (Cuorato Decl., ¶ 10)	7, 10, 16-22, 26, 33-50, 54-55, 59-62, 67 70-75, and 77-80, 82-107
When Noble Sent Its Proof (Cuorato Decl., ¶ 11)	7-9, 11-17, 26, 32-50, 52-53, 57-58, 60-62, 69, 76-89, and 91-108
Destinations (Cuorato Decl., ¶ 12)	48, 79, 82-84, 91-93
Goods Receipts (Cuorato Decl., ¶¶ 13-14)	1-6, 10-53, 55-59, 63-85, 87-107
Date (Cuorato Decl., ¶ 15)	9, 27-31, 52, 59, 83-84, 90, 94-108
Errors on the Schedule (Cuorato Decl., ¶ 16)	9, 10, 63, 68
Customer Records (Cuorato Decl., ¶ 17)	N/A

U.S. Department of Justice

Civil Division

Washington, DC 20530

October 30, 2026

VIA CM/ECF

The Honorable Craig T. Goldblatt
United States Bankruptcy Court for the District of Delaware
824 North Market Street
Wilmington, Delaware 19801

Re: *Noble Supply & Logistics, LLC v. Defense Logistics Agency*, Adv. No. 26-50885 (CTG)

Dear Judge Goldblatt:

This letter responds to the questions the Court raised at the October 28 hearing about whether DLA owes Noble any undisputed, matured, and payable debts for the Lines discussed below, relying only on the summary judgment record. Hr'g Tr. 158:8–12, 160:17–161:7, 162:3–14 (Oct. 28, 2026) ("Tr.") (cited pages attached as Exhibit A). The short answer is no. As the movant with the burden of proof, Noble must show that no reasonable factfinder could find for DLA on any element of Noble's claims. *In re Bressman*, 327 F.3d 229, 238 (3d Cir. 2003). The record establishes that Noble's "right to payment under the Contracts is conditioned upon delivery to the agreed upon destination and acceptance by the Government." Debtors' Reply ¶ 22 (Adv. D.I. 35). Here, Noble has not shown that acceptance under the Contracts occurred.

The FAR defines acceptance as "the act of an authorized representative of the Government by which the Government . . . assumes ownership of existing identified supplies tendered." FAR 46.101. Each invoice payment requires a "receiving report or other Government documentation authorizing payment" that shows when "the designated Government official . . . [a]ccepted the supplies" and bears that official's signature. FAR 32.905(c). This record is the goods receipt, and Noble is not entitled to payment until that goods receipt is posted and Noble invoices DLA. Cuorato Decl. ¶¶ 4–5 (Adv. D.I. 19-2); *see* Defense Logistics Acquisition Directive 32.905(c)(S-90)(1)(ii)(B)(1) (acceptance results in "the posting of a goods receipt"). The record contains no evidence that DLA accepted delivery of the goods or services discussed below (the "Lines," numbered as in Cuorato Decl. Sched. 1).

1. Alleged Proof DLA Received by August 27: Lines 10, 18–22, 55, 59, 65–67, 70–75, and 90

Noble bears the burden of proving that its proof of delivery complies with the Contract terms and applicable law. The Court asked where the record shows why DLA found Noble's proof received by August 27 insufficient. Tr. 142:17–143:9. DLA found the proof insufficient for all 18 Lines in this group ($1,160,790.28). Cuorato Decl. ¶ 14 & Sched. 1. DLA posted no goods receipt for any of the 18, *id.* ¶ 13, and there is no evidence in the record that DLA accepted these Lines.

For Line 10 ($16,384), Noble was notified on July 28 that DLA could not "post the goods receipt (GR), because the POD doesn't show the delivery location." Adv. D.I. 19-3 at 11. Noble's next email in the record, on September 16, after the termination, sent a "newly attached receiving report." *Id.* at 10. Because the Government is not liable after a termination for cause for supplies it has not accepted, FAR 52.212-4(m) (Adv. D.I. 5-1 at 13), Noble must show that it supplied the

necessary proof before August 27. *See* Tr. 164:18–22. There is no evidence in the record of such proof.

For nine other Lines (Lines 55, 59, 67, and 70–75; $525,494.66), Noble's alleged proof is a carrier's record. Cuorato Decl. Sched. 1. DLA's declarant states that for most Lines whose proof DLA found insufficient, "nothing in the proof shows that the customer received the goods." *Id.* ¶ 9. Noble calls such lack of proper documentation immaterial because its right to payment depends on "delivery to the agreed upon destination and acceptance by the Government, not receipt by the end customer." Reply ¶ 22. But under the Contracts, the destination is the place of inspection and acceptance. Adv. D.I. 5-1 at 60, 102. Noble and its carriers, not DLA, hold the records that show where each shipment was received and who signed for delivery. Cuorato Decl. ¶ 22. Noble has not filed those records or other proof of receipt and acceptance. Further, there is no evidence in the record that any customer received, inspected, or used any of these goods. Without such evidence, Noble has not met its burden to show delivery to the appropriate destination or acceptance.

For Lines 65 and 66 ($611,545.87), the receiving report Noble relies on is not in the record. Nothing in the record identifies who signed the report, that person's position, or any authority to accept goods on behalf of the Government. The phrase "representative of the Government" comes from Noble's declarant, who says that for each delivery "either a representative of the Government signed a receiving report for such goods or Noble obtained proof of delivery from a shipper or freight forwarder," without identifying which "proof" applies to which Line. Albergotti Decl. ¶ 17 (Adv. D.I. 5). DLA's declarant used the same phrase only to sort the proof in Noble's own terms. Cuorato Decl. ¶ 10 & Sched. 1. That is not an admission that a Government representative signed this report. Only "the designated Government official" can record acceptance. FAR 32.905(c)(5)–(6). Noble bears the burden to show that this report was signed by that official, and there is no evidence in the record that the Government received and properly signed it.

Lines 18–22 ($4,857.75) are on a fast payment order, so Noble may invoice them without a goods receipt, but there is no evidence in the record that it has done so. Cuorato Decl. ¶¶ 5, 14 & Sched. 1. For Line 90 ($2,508), DLA received Noble's "proof" on August 12, but Noble's evidence shows delivery on August 27. *Id.* ¶ 15(a) & Sched. 1. Proof of delivery cannot be sent before a delivery.

2. Alleged Proof DLA Received After August 27: Lines 11–17, 26, 32–50, 52–53, 57–58, 69, 76–85, 87–89, and 91–107

A. No Payments Are Mature or Payable Without a Goods Receipt

The Court asked whether, for goods delivered before August 27 whose alleged proof arrived later, the goods receipt is a ministerial act that DLA is legally obligated to perform, so that the debt has matured. Tr. 149:15–150:6, 158:1–5. It is not. Posting the goods receipt is a legal requirement for payment. If it were a ministerial act, any contractor could claim delivery and demand payment before the Government decided whether the goods arrived and conform.

Under the Contracts, Noble "shall only tender for acceptance those items that conform to the requirements of this contract," and the Government "reserves the right to inspect or test any supplies or services that have been tendered for acceptance." FAR 52.212-4(a) (Adv. D.I. 5-1 at 10). Deciding whether a delivery conforms to the Contracts is reserved to the Government. The goods receipt is, therefore, not a ministerial act but an official record of DLA's acceptance, and it is required by law before any contractor is entitled to payment. FAR 32.905(c); Cuorato Decl. ¶ 4; *see Sperry Corp. v. United States*, 845 F.2d 965, 969–70 (Fed. Cir. 1988) (no acceptance until the Government executed its receiving report).

DLA has posted no goods receipt for any of these Lines. Cuorato Decl. ¶¶ 6, 11, 13–14. There is also no evidence in the record that DLA accepted these Lines, and DLA found Noble's alleged proof insufficient for 49 Lines ($10,738,432.33). Of those 49 Lines, 43 show inadequate carrier records like those in Part 1. *Id.* Sched. 1. Whether Noble delivered the goods described in those 49 Lines as the Contracts require is a genuine issue of material fact that bears on DLA's

liability. Under Noble's own cited authority, that is a bona fide dispute. *In re IPC Int'l Corp.*, No. 13-12050, 2014 WL 5544692, at *3 (Bankr. D. Del. Nov. 3, 2014) (quoted at Adv. D.I. 4 ¶ 42).

B. Acceptance Under the Contracts Requires an Affirmative Act by the Government

The Court asked for authority that acceptance is an affirmative act. Tr. 151:19–20, 152:9–14. The Federal Circuit held that acceptance did not occur until the Government executed its inspection and receiving report, a DD Form 250, consistent with the parties' view "that acceptance would require some affirmative action by the government." *Sperry*, 845 F.2d at 969–70. It does not matter whether the Government has received the goods or services. The same court found no acceptance where the Government possessed the work, because "only the contracting officer could finally accept the work" and there was "nothing in the record that even suggests, much less establishes, that the contracting officer did so." *M.C. & D. Capital Corp. v. United States*, 948 F.2d 1251, 1255–56 (Fed. Cir. 1991). Nothing in the record here suggests that DLA accepted any of these Lines either: Noble's production has no DD Form 250 for any Line. Cuorato Decl. ¶ 18. A debt payable "only upon the occurrence of a certain act or event" is not matured. *In re MF Glob., Inc.*, 531 B.R. 424, 438 (Bankr. S.D.N.Y. 2015) (quoted at Adv. D.I. 4 ¶ 44). Here, acceptance is that required act, as Noble agrees, *see* Debtors' Reply ¶ 22. But there is no evidence in the record of DLA's acceptance, so these debts are not matured.

The Prompt Payment Act, which the Contracts adopt, leads to the same result. Adv. D.I. 5-1 at 8, 11. Payment is due 30 days after the later of a proper invoice and Government acceptance. FAR 32.904(b)(1)(i)–(ii). There is no evidence in the record that DLA accepted the goods described in these Lines, and Noble admits it has not invoiced DLA. Albergotti Decl. ¶ 17; Tr. 92:19–20. So the 30-day period the Court described has not begun. Tr. 107:7–108:14.

C. Termination of the Orders Precludes Maturity of Any Debt

The terminations are a separate barrier to maturity. After a termination for cause, "the Government shall not be liable to the Contractor for any amount for supplies or services not accepted." FAR 52.212-4(m) (Adv. D.I. 5-1 at 13). Therefore, a contractor cannot recover for work the Government did not accept before the termination, "[r]egardless of whether [it] completed the work." *Taino Constr. Grp., LLC v. United States*, 177 Fed. Cl. 730, 745 (2025).

DLA had accepted none of the Lines in this group when it terminated the orders on August 27, and a terminated order line "is no longer under contract." Cuorato Decl. ¶¶ 6, 13. Of the 62 Lines in this group, 13 have proof that DLA marked as acceptable ($1,117,501.57). However, DLA first received that proof after the terminations, although Noble claims it delivered five of the 13 on July 27. *Id.* ¶ 11 & Sched. 1. So, these 13 Lines fall outside the principle the Court applied: "deliveries before the 27th, proof received before the 27th," and acceptable proof. Tr. 164:18–22. Nothing in the Contracts requires DLA to accept supplies on a terminated order line, so acceptance after August 27 or the posting of a goods receipt is not a ministerial act. The Court read the termination notices to imply that earlier deliveries would still be "considered for Goods Receipt posting," which is review, not acceptance. Tr. 154:14–155:13; Adv. D.I. 5-1 at 187. Noble offers no evidence, nor is there any evidence in the record, that DLA accepted any of these Lines after August 27.

D. Noble's Reliance on FAR 46.407(g) for Implied Acceptance Is Misplaced

Noble relies on FAR 46.407(g) for implied acceptance. Adv. D.I. 4 ¶ 39; Reply ¶ 17; Tr. 139:11–17. Neither Contract incorporates section 46.407(g) or refers to it. *See* Adv. D.I. 5-1 at 2–62, 64–105. The Contracts set no deadline to reject. *See* FAR 52.212-4(a). With no deadline to reject and no payment until acceptance, a contractor has every reason to send its proof and press for acceptance. For all but two of these Lines, Noble did not take that first step: neither DLA's records nor Noble's production shows that Noble sent any proof by August 27. Cuorato Decl. ¶ 11.

Possession is also not acceptance. The Court asked why delivery without a rejection should not be treated as acceptance. Tr. 151:6–14. The Contracts answer that question: title passes to the Government "upon acceptance, regardless of when or where the Government takes physical possession." FAR 52.212-4(n) (Adv. D.I. 5-1 at 13). Courts have "repeatedly found that government possession and use is not akin to acceptance," even where the Government used a building before accepting it. *PCL Constr. Servs., Inc. v. United States*, 47 Fed. Cl. 745, 809 (2000). Until DLA accepts, the goods belong to Noble, wherever they are, and Noble may retrieve them. *See* Tr. 153:5–12. Noble's declarant states only that the Government "retained possession" and nothing about acceptance or use. Albergotti Decl. ¶ 17. Noble's own authority requires more: implied acceptance "arises from a Government act inconsistent with the contractor's ownership of such items." Debtors' Reply ¶ 17 n.26 (quoting *Ateron Corp.*, ASBCA No. 46867, 96-1 BCA ¶ 28,165). Holding goods that the Contracts say still belong to Noble is not such an act. Noble must show, for each Line, that the Government used the goods or otherwise treated them as its own, and Noble offers no evidence, nor is there any evidence in the record, that DLA did so.

The lack of acceptance is a barrier to maturity. "[P]ayment shall be made for items accepted by the Government," FAR 52.212-4(i)(1) (Adv. D.I. 5-1 at 11), and there is no evidence in the record that DLA accepted these Lines. Noble's argument that DLA should have accepted them is a claim that DLA breached the Contracts. As the Court put it, "if there's a barrier to maturity, that is a contract violation. Then we've got a contract dispute, not a turnover action." Tr. 95:21–23.

3. Incorrect Delivery Locations Bar Acceptance: Lines 79, 82–84, and 91–93

The record contains no evidence that DLA agreed to change the destinations for these Lines. Noble delivered the goods and services in seven Lines ($6,042,307.93) to Fort Bragg, North Carolina (Lines 82 through 84 and 91 through 93), and Camp Pendleton, California (Line 79, which was ordered for Hanahan, South Carolina). DLA approved no modification changing the delivery destinations to Fort Bragg or Camp Pendleton. Cuorato Decl. ¶ 12. A change of destination requires the "written agreement of the parties." FAR 52.212-4(c) (Adv. D.I. 5-1 at 10). The Court placed on Noble the burden to show that agreement in the record. Tr. 143:19–144:5, 161:16–162:2. Noble's counsel acknowledged that the reason for these differing destinations "is not expressly in the record." Tr. 117:18–22.

Specifically, for Lines 82 and 91 through 93 ($4,478,211.06), DLA agreed in July that Noble could ship to Fort Irwin, California, not Fort Bragg. Adv. D.I. 19-4 at 7–8, 10, 22. On August 17, when Noble's supplier asked whether it could ship them to Fort Bragg, Noble's buyer answered, "No, not yet. I'm confirming with the contracts team." *Id.* at 32–33. The buyer then asked an Army support contractor, not DLA, to confirm that the items were "approved to ship to 82ND ABN at Ft. Bragg." *Id.* at 32. That contractor's signature block states that its correspondence "in no way binds or obligates the Government contractually." *Id.* Noble waited until October 14, after it filed this proceeding, to ask DLA to approve the Fort Bragg destination. Cuorato Decl. ¶ 12. There is no evidence in the record that DLA agreed that Noble could send deliveries to Fort Bragg.

Lines 83 and 84 ($1,219,321.69) are for services. Noble asked to change their destination on August 17, and DLA did not approve the change. Cuorato Decl. ¶ 12. For these Lines and Line 82 (also a service), Noble relies on an Army program office email sent after the termination, "confirming receipt for the below that supported the 82nd event at Ft Bragg." Adv. D.I. 19-4 at 27. A customer's confirmation of receipt is not DLA's written agreement to a new destination, and there is no evidence in the record that DLA ever approved a change in destination for these Lines.

4. Conclusion

Under the law and the terms of the Contracts, acceptance has not occurred for any of these Lines, for whatever reason. Without acceptance, there is no matured debt payable upon demand. Noble has not met its legal and evidentiary burdens for summary judgment, which rests on Mr. Albergotti's declarations. What is described above and at the October 28 hearing, in addition to being a dispute over material facts, is not turnover but a breach of contract claim governed by the Contract Disputes Act. Accordingly, the United States respectfully requests that the Court deny Noble's motion for summary judgment as to these Lines.

Respectfully submitted,

Ryan W. Lamb
Trial Attorney

cc: All counsel of record (via CM/ECF)

EXHIBIT 4-I

Transcript of Oct. 28, 2026 Hearing [Bankr. D.I. 428] (cover and pp. 50, 149–150, 152, 157)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	.	Chapter 11
	.	Case No. 26-11369 (CTG)
NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,	.	(Jointly Administered)
Debtors.	.	
	.	
NOBLE SUPPLY & LOGISTICS, LLC,	.	Adversary Proceeding No. 26-50885 (CTG)
Plaintiff,	.	
v.	.	
DEFENSE LOGISTICS AGENCY,	.	Courtroom No. 7 824 Market Street Wilmington, Delaware 19801
Debtors.	.	
	.	Wednesday, October 28, 2026 10:00 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

Audio Operator: Alyce Doody, ECRO

Transcription Company: Reliable
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Proceedings recorded by electronic sound recording, transcript produced by transcription service.

I can do what I feel like instead of what the law requires.

So, to the extent someone wants to get up and say, Judge, the law requires you to do X but it would be really better for my clients and the parties to the case if you would do the opposite, let me just tell you now you're going to lose. Okay? Is that -- am I clear enough?

MR. AXELROD: You're very clear, Your Honor.

THE COURT: Okay. Very well.

MR. AXELROD: I think our comments later in the day may be directed to why we believe you do have a choice.

THE COURT: Okay.

MR. AXELROD: But, clearly, I've made the point as far as I need to make it right now.

THE COURT: Very well.

MR. AXELROD: Thank you.

THE COURT: Okay. Anything else?

(No verbal response)

THE COURT: All right. So I'm going to deny the motion for adequate protection and we can talk about forms of order and all of that when we finish the other matters in front of us.

What's next?

MR. DEAN: Lift stay, Your Honor.

THE COURT: Very well.

MR. LAMB: Good morning, Your Honor.

proof of receipt.

THE COURT: We will come back to that question. That is the question I intentionally left open.

MR. LAMB: So, the issue that -- and that is exactly where I was going. So, the issue that we really will probably be focusing on in the next couple of days when we do the meet and confer, if we do it now even, is what about the deliveries where the proof of delivery wasn't provided prior to the 27th.

THE COURT: So, that is a legal question that I think I need to decide. So, I'm not making you agree about that. I am only making you agree where the question is what does this record show me.

MR. LAMB: Understood.

THE COURT: To the extent there are legal questions that is my job. As much as I sometimes would prefer not to have to do it, that is the job for which I signed up. So, on that question there is a category, and it's sizeable category, of deliveries that occurred before the 27th where the proof of delivery arrived afterwards. And the question is, is that a mature debt because there is just a ministerial act that the Government has to do and hasn't done or is the Government not obligated to do that for those deliveries and, therefore, it's not a ministerial act and, therefore, the debt is not matured.

I don't know the answer to that question, and I want to hear from both of you on that issue if you walk me through whatever -- and I don't want to be an expert in the way the FAR works. There is a good reason why Congress created the Court of Federal Claims but I feel like here I am and I think that that is kind of what I have to figure out.

So, let me give you both the chance to be heard.

MR. LAMB: Certainly, Your Honor. So, as to the FAR on that point, and that goes to Subparagraph (m) that I identified earlier. It states that the Government shall not be liable to any contractor -- or to the contractor for any amount for supplies or services not accepted and that -- the moment that occurred in this instance was August 27th.

THE COURT: Hold on one second, let me pull up that FAR language for a second.

(Pause)

THE COURT: The Government may terminate this contract or any part here of for cause in the event of default by the contract or if the contractor fails to comply with the contract terms and conditions or fails to provide the Government with adequate assurance of future performance.

MR. LAMB: That was all the actions that DLA took prior to the termination.

THE COURT: All good. In the event of termination for cause, the Government shall not be liable to the

appreciate that this is a tight case where cash flows have to move. I am not going to tilt my decision one way or the other for that reason but I am going to try to speed it up for that reason. So, we're going to have to walk and chew gum and the stuff that is indisputably owed we're going to have to get to the bottom of that at the same time we're briefing the issues where there are disputes. And we're going to brief quickly too.

Look, I think that your point that -- and I will hear from Mr. Dean on this issue too, but I hear you that it's a non-insane reading of the language to say acceptance is an affirmative act by the Government and if there is authority that supports that proposition I want to make sure I have given you the chance to tell me what it is.

MR. LAMB: I am happy to find that for you. I can find that in probably 10 minutes, Your Honor.

So, the second point I would like to make is that the case law that the debtors cite for the constructive acceptance all points to instances where the Government used the goods provided.

THE COURT: I hear that.

MR. LAMB: The debtors haven't provided any proof that the goods have been used by the United States.

THE COURT: Okay. So, what we're talking about presumptively are goods that are sitting in a warehouse

asked for a chance to respond to that directly. I think he's entitled to that. I am going to ask for this in like a couple of days because I want to get you all a decision as promptly as I can and I'm trying to balance the needs of the case with, you know, common human decency but any disagreement with the notion of giving you a couple of days and then we will get a decision.

MR. DEAN: If Your Honor thinks it would be helpful to you that is all I --

THE COURT: Well, I want to be fair to the parties also.

MR. DEAN: We really needed to have this hearing before the end of the month and it's the 28th. So, we really need the money by the beginning of November.

THE COURT: No, I understand. I think some of it, you know, for the parts that we have talked about where there is not -- where based on these principles it doesn't turn on the answer to those questions we ought to get -- I mean, what I'm expecting is for the parties to put these things into buckets as promptly as possible. Ones where, based on what I've said there is no longer a dispute. That should just be paid.

Ones where, you know, you take the position that there is something in the record that caused it to fall on one side of the line or the other and on that you can show me

EXHIBIT 4-J

Third Interim Cash Collateral Order, Bankr. D.I. 338 at 1, 24–35 (¶ 3), and its Budget, Bankr. D.I. 338-1

THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: Noble Supply & Logistics, LLC, *et al.*, Debtors.[1]	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered) **Re: Docket No. 13, 73, 218 & 331**

THIRD INTERIM ORDER (I) AUTHORIZING LIMITED USE OF CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS TO PREPETITION SECURED PARTIES, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases, pursuant to sections 105, 361, 362, 363, 503, 506, and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 4001-2, and 9013-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), seeking entry of the interim order [Docket No. 73] (the "Interim Order"), a second interim order [Docket No. 218] (the "Second Interim Order" and this Order, the "Third Interim Order") and the Final Order (as defined herein) as applicable, among other things:

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 1 Marina Park Drive, Suite 220, Boston, MA 02210.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion, or the First Day Declaration, as applicable.

IT IS HEREBY ORDERED THAT:

1. Motion Granted. The interim relief sought in the Motion is granted and the use of Cash Collateral on an interim basis is authorized, solely as set forth in this Third Interim Order. All objections to the Motion with respect to entry of this Third Interim Order to the extent not withdrawn, waived, settled, or resolved are hereby denied and overruled on the merits. The rights of all parties in interest to object to entry of a Final Order are fully reserved.

2. Use of Cash Collateral. To prevent immediate and irreparable harm to the Debtors' estates, the Debtors are hereby authorized, subject to the terms and conditions of this Third Interim Order (including the Carve Out), to use all Cash Collateral in accordance with this Third Interim Order and the Approved Budget (subject to permitted variances); *provided* that (a) the Prepetition Secured Parties are granted the Adequate Protection as hereinafter set forth and (b) except on the terms and conditions of this Third Interim Order, the Debtors shall be enjoined and prohibited from at any times using the Cash Collateral absent further order of the Court.

3. Adequate Protection of Prepetition Secured Parties. The Prepetition Secured Parties are entitled, pursuant to sections 361, 362, 363(e), 364(d)(1), and 507 of the Bankruptcy Code, to adequate protection of their respective interests in the Prepetition Collateral (including Cash Collateral) for the aggregate diminution in the value of their respective interests in the Prepetition Collateral (including Cash Collateral) from and after the Petition Date for any reason provided for under the Bankruptcy Code, including, without limitation, any such diminution resulting from the sale, lease, or use by the Debtors' estates of the Prepetition Collateral, the use of Cash Collateral, the payment of any amounts under the Carve Out or pursuant to the Interim Order, the Second Interim Order, this Third Interim Order, the Final Order, or any other order of the Court or provision of the Bankruptcy Code or otherwise, and the imposition of the Automatic

Stay (the "Adequate Protection Claims"). In consideration of the foregoing, the Prepetition Agents, for the benefit of the applicable Prepetition Secured Parties, subject in all respects to the Prepetition Intercreditor Agreements and the Carve Out, are hereby granted the following as Adequate Protection on account of their Adequate Protection Claims, and as an inducement to the Prepetition Secured Parties to consent to the use of the Prepetition Collateral (including Cash Collateral) (collectively, the "Adequate Protection Obligations"):

(a) ABL Adequate Protection Liens. The Prepetition ABL Agent, for itself and for the benefit of the Prepetition ABL Lenders, is hereby granted (effective and automatically perfected upon the date of the Interim Order and ratified and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements, or other agreements), on account of its Adequate Protection Claims, a valid, automatically perfected security interest in and lien upon (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) all tangible and intangible prepetition and postpetition property of the Debtors (including the Prepetition Collateral), whether existing on the Petition Date or thereafter acquired, and the proceeds, products, rents, and profits thereof, including, without limitation, any and all cash of the Debtors (wherever held) and any investment of cash, inventory, accounts receivable, and other rights to payment whether arising before or after the Petition Date, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, goodwill, causes of action, insurance policies and rights, claims, and proceeds from insurance, chattel paper (including electronic chattel paper and tangible chattel paper), the proceeds of any disposition of real property leaseholds, owned real properties, deposit accounts, patents, copyrights, trademarks,

trade names, rights under license agreements and other intellectual property, equity interests of subsidiaries, joint ventures, and other entities, commercial tort claims, wherever located, and the proceeds, products, rents, and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, excluding (i) claims and causes of action under sections 502(d), 544, 545, 547, 548, and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code (collectively, "Avoidance Actions"), *provided* that, subject to entry of a Final Order, a lien shall be granted immediately hereunder on any proceeds or property recovered, unencumbered, or otherwise from Avoidance Actions, whether by judgment, settlement, or otherwise ("Avoidance Proceeds") and (ii) Professional Fee Reserve (as defined herein) and any amounts held therein (the foregoing collateral, collectively, the "Adequate Protection Collateral," and the liens thereon, the "ABL Adequate Protection Liens"). Notwithstanding the foregoing, the ABL Adequate Protection Liens shall not include (1) any of the Debtors' real property leases (but shall include all proceeds realized from a sale, assignment, termination, or other disposition of such leases) and no liens granted pursuant to either the Interim Order, the Second Interim Order, or this Third Interim Order shall attach to the Debtors' real property leaseholds; (2) any insurance or proceeds therefrom for damage to a landlord's property; and (3) any security deposits (in possession of the landlord) or the Debtors' interests, if any, in any pre-paid rent, unless liens on such security deposits or pre-paid rent are expressly permitted pursuant to the underlying lease documents (provided, that upon return or recovery of such security deposits or pre-paid rent by the Debtors such recovered amounts shall constitute Adequate Protection Collateral). The ABL Adequate Protection Liens on Adequate Protection Collateral that falls within the scope of (i) ABL Priority Collateral (as defined in the Prepetition Intercreditor Agreement) and previously unencumbered assets of the type that constitute ABL Priority Collateral (together with the ABL

Priority Collateral as defined in the Prepetition Intercreditor Agreement, the "ABL Priority Collateral") shall (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) be senior to all other liens and (ii) Term Loan Priority Collateral (as defined in the Prepetition Intercreditor Agreement) shall (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) be subordinate only to the Term Loan Adequate Protection Liens and the Prepetition Term Loan Liens, subject to the Prepetition Intercreditor Agreement; *provided* that notwithstanding the foregoing, upon payment of all amounts required to be paid from the Professional Fee Reserve hereunder, subject to the Prepetition Intercreditor Agreements, the Professional Fee Reserve and any remaining funds therein shall constitute ABL Priority Collateral hereunder and the ABL Adequate Protection Liens shall attach thereto.

(b) Prepetition ABL Secured Parties' Section 507(b) Claim. The Prepetition ABL Agent, for itself and for the benefit of the Prepetition ABL Lenders, is hereby granted an allowed superpriority administrative expense claim (senior to other administrative expense claims to the extent provided by section 507(b) of the Bankruptcy Code but subject and subordinate to the Carve Out and subject to the Prepetition Intercreditor Agreement) on account of such Prepetition ABL Secured Parties' Adequate Protection Claims against the Debtors and their estates on a joint and several basis, solely as provided for in section 507(b) of the Bankruptcy Code (the "ABL 507(b) Claim"), which ABL 507(b) Claim shall be payable from all Adequate Protection Collateral and all proceeds thereof; *provided* that such recourse shall be subject in all respects to

the Carve Out and the Prepetition Intercreditor Agreement. With respect to the ABL Priority Collateral, the ABL 507(b) Claim shall (subject and subordinate to the Carve Out) be senior to all other claims of any kind, and, with respect to the Term Loan Priority Collateral, the ABL 507(b) Claim shall be subject and subordinate only to the Carve Out, the Term Loan 507(b) Claim (as defined herein), and any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, and the prepetition claims of the Prepetition Term Loan Secured Parties.

(c) Term Loan Adequate Protection Liens. The Prepetition Term Loan Agent, for itself and for the benefit of the Prepetition Term Loan Lenders, is hereby granted (effective and perfected upon the date of the Interim Order and ratified and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements, or other agreements), on account of its Adequate Protection Claims, a valid, automatically perfected security interest in and lien upon (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) the Adequate Protection Collateral (the "Term Loan Adequate Protection Liens"). Notwithstanding the foregoing, the Term Loan Adequate Protection Liens shall not include, except as may be permitted by the applicable lease agreements, (1) any of the Debtors' real property leases (but shall include all proceeds realized from a sale, assignment, termination, or other disposition of such leases) and, except as may be permitted by the applicable lease agreements, no liens granted pursuant to either the Interim Order, the Second Interim Order, or this Third Interim Order shall attach to the Debtors' real property leaseholds; (2) any insurance or proceeds therefrom for

damage to a landlord's property; and (3) any security deposits (in possession of the landlord) or the Debtors' interests, if any, in any pre-paid rent, unless liens on such security deposits or pre-paid rent are expressly permitted pursuant to the underlying lease documents (provided, that upon return or recovery of such security deposits or pre-paid rent by the Debtors such recovered amounts shall constitute Adequate Protection Collateral). The Term Loan Adequate Protection Liens on Adequate Protection Collateral that falls within the scope of (i) Term Loan Priority Collateral (as defined in the Prepetition Intercreditor Agreement) and previously unencumbered assets of the type that constitute Term Loan Priority Collateral (together with the Term Loan Priority Collateral as defined in the Prepetition Intercreditor Agreement, the "Term Loan Priority Collateral") shall (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) be senior to all other liens and (ii) ABL Priority Collateral shall (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) be subordinate only to the ABL Adequate Protection Liens and the Prepetition ABL Liens, subject to the Prepetition Intercreditor Agreements.

(d) Prepetition Term Loan Secured Parties' Section 507(b) Claim. The Prepetition Term Loan Agent, for itself and for the benefit of the Prepetition Term Loan Lenders, is hereby granted an allowed superpriority administrative expense claim (senior to other administrative expense claims to the extent provided by section 507(b) of the Bankruptcy Code but subject and subordinate to the Carve Out) on account of such Prepetition Term Loan Secured Parties' Adequate Protection Claims solely as provided for in section 507(b) of the Bankruptcy

Code (the "Term Loan 507(b) Claim"), which Term Loan 507(b) Claim shall be payable from and have recourse to all Adequate Protection Collateral and all proceeds thereof; *provided* that such recourse shall be subject in all respects to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, and the Prepetition Intercreditor Agreements. With respect to the Term Loan Priority Collateral, the Term Loan 507(b) Claim shall (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) be senior to all other claims of any kind, and, with respect to the ABL Priority Collateral, the Term Loan 507(b) Claim shall be subject and subordinate only to the Carve Out, any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, the ABL 507(b) Claim, the Prepetition Permitted Senior Liens, and the prepetition claims of the Prepetition ABL Secured Parties.

(e) Subordinated Note Adequate Protection Liens. Subject to the immediately following sentence, the Prepetition Subordinated Note Agent, for itself and for the benefit of the Prepetition Subordinated Noted Holders, is hereby granted (effective and perfected upon the date of the Interim Order and ratified and without the necessity of the execution of any mortgages, security agreements, pledge agreements, financing statements, or other agreements), on account of its Adequate Protection Claims, a valid, automatically perfected security interest in and lien upon (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition

Date as permitted by section 546(b) of the Bankruptcy Code) the Adequate Protection Collateral (the "Subordinated Note Adequate Protection Liens," and collectively with the ABL Adequate Protection Liens and the Term Loan Adequate Protection Liens, the "Adequate Protection Liens"). Notwithstanding the foregoing, the Subordinated Noted Adequate Protection Liens shall not include, except as may be permitted by the applicable lease agreements, (1) any of the Debtors' real property leases (but shall include all proceeds realized from a sale, assignment, termination, or other disposition of such leases) and, except as may be permitted by the applicable lease agreements, no liens granted pursuant to either the Interim Order, the Second Interim Order, or this Third Interim Order shall attach to the Debtors' real property leaseholds; (2) any insurance or proceeds therefrom for damage to a landlord's property; and (3) any security deposits (in possession of the landlord) or the Debtors' interests, if any, in any pre-paid rent, unless liens on such security deposits or pre-paid rent are expressly permitted pursuant to the underlying lease documents (provided, that upon return or recovery of such security deposits or pre-paid rent by the Debtors such recovered amounts shall constitute Adequate Protection Collateral). The Subordinated Note Adequate Protection Liens on Adequate Protection Collateral shall (subject and subordinate to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code) be senior to all other liens and be subordinate only to the ABL Adequate Protection Liens and the Prepetition ABL Liens, the Term Loan Adequate Protection Liens and Prepetition Term Loan Liens, subject to the Prepetition Intercreditor Agreements.

(f) Prepetition Subordinated Note Secured Parties' Section 507(b) Claim. The Prepetition Subordinated Note Agent, for itself and for the benefit of the Prepetition Subordinated

Note Holders, is hereby granted an allowed superpriority administrative expense claim (senior to other administrative expense claims to the extent provided by section 507(b) of the Bankruptcy Code but subject and subordinate to the Carve Out) on account of such Prepetition Subordinated Note Secured Parties' Adequate Protection Claims solely as provided for in section 507(b) of the Bankruptcy Code (the "Subordinated Note 507(b) Claim," and collectively with the ABL 507(b) Claim and the Term Loan 507(b) Claim, the "507(b) Claims"), which Subordinated Note 507(b) Claim shall be payable from and have recourse to all Adequate Protection Collateral and all proceeds thereof; *provided* that such recourse shall be subject in all respects to the Carve Out and to any valid, perfected, unavoidable liens or security interests in existence as of the Petition Date, or that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, and the Prepetition Intercreditor Agreements.

(g) Prepetition ABL Secured Parties' Adequate Protection Fees and Expenses. As further adequate protection, the Debtors shall, subject to the Prepetition Intercreditor Agreements, provide the Prepetition ABL Agent, for the benefit of the Prepetition ABL Lenders, current cash payments of the reasonable and documented prepetition and postpetition fees and expenses of the Prepetition ABL Agent under the Prepetition ABL Credit Documents, including, but not limited to, the reasonable and documented fees and out-of-pocket expenses of any primary, special, conflicts, and local counsel (in each applicable jurisdiction, if applicable) and financial advisors, including the reasonable and documented fees and out-of-pocket expenses of Otterbourg P.C., as primary counsel, Richards, Layton & Finger, P.A., as local counsel, and Sierra Constellation Partners, LLC, as financial advisor (the "ABL Adequate Protection Fees and Expenses"), subject to the review procedures set forth in paragraph 15 of this Third Interim Order.

(h) Prepetition Term Loan Secured Parties' Adequate Protection Fees and Expenses. As further adequate protection, the Debtors shall, subject to the Prepetition Intercreditor Agreements, provide the Prepetition Term Loan Agent, for the benefit of the Prepetition Term Loan Lenders current cash payments of (A) the reasonable and documented prepetition and postpetition fees and expenses (including legal expenses) of the Prepetition Term Loan Agent under the Prepetition Term Loan Credit Documents, and (B) the reasonable and documented fees and out-of-pocket expenses of McDermott Will & Schulte LLC, as counsel to certain of the Prepetition Term Loan Lenders (collectively, (A) and (B), the "Term Loan Adequate Protection Fees and Expenses"), subject to the review procedures set forth in paragraph 15 of this Third Interim Order.

(i) Prepetition Subordinated Note Secured Parties' Adequate Protection Fees and Expenses. As further adequate protection, the Debtors shall provide the Prepetition Subordinated Note Agent, for the benefit of the Prepetition Subordinated Note Holders but subject in all respects to the Approved Budget and the Prepetition Subordination Agreement, current cash payments of (A) the reasonable and documented prepetition and postpetition fees and expenses (including legal expenses) of the Prepetition Subordinated Note Agent under the Prepetition Subordinated Note Documents, and (B) the reasonable and documented fees and out-of-pocket expenses of Arnold & Porter Kaye Scholer LLP, as counsel to the Prepetition Subordinated Note Agent and Young Conaway Stargatt & Taylor, LLP, as counsel to certain of the Prepetition Subordinated Note Holders (collectively, (A) and (B), the "Subordinated Note Adequate Protection Fees and Expenses"), subject to the review procedures set forth in paragraph 15 of this Third Interim Order.

(j) Postpetition Payment of Prepetition Term Loan Obligations. Subject in all respects to the Prepetition Intercreditor Agreement, commencing on the last business day of the first week following the payment in full in cash of all Prepetition ABL Obligations, including any and all corporate credit card indebtedness, and collateralization of all Prepetition Letters of Credit, and each week thereafter, the Debtors shall make adequate protection cash payments (each, a "Weekly Paydown") to the Prepetition Term Loan Agent, as needed, in the amount necessary to ensure the aggregate outstanding amount of the Term Loan Obligations is less than or equal to the amount set forth in the Approved Budget under the line item entitled "Ending Balance" for each applicable weekly period (such amount, the "Weekly Paydown Amount"); *provided* that, in the event any Prepetition ABL Obligations become due and payable following commencement of the Weekly Paydown on the Prepetition Term Loan Obligations, such Weekly Paydowns on the Prepetition Term Loan Obligations (to the extent such paydowns are made with the proceeds of ABL Priority Collateral) shall cease pending the Prepetition ABL Agent's receipt of cash to pay in full or fully cash collateralize, as applicable, such Prepetition ABL Obligations. For the avoidance of doubt, nothing herein shall in any way waive or limit the Debtors' obligation to comply with the applicable Approved Budget.

(k) Collateralization of Prepetition ABL Obligations. The Prepetition ABL Agent and the Prepetition ABL Lenders are further authorized, without further order of this Court, to permanently apply any cash collateral then held by the Prepetition ABL Agent or Prepetition ABL Lenders to pay any contingent Prepetition ABL Obligations that become due and payable on or after the Petition Date, and the automatic stay under Section 362 of the Bankruptcy Code is so modified to permit the Prepetition ABL Agent or Prepetition ABL Lenders' application of cash collateral.

(l) Adequate Protection Information Rights. The Debtors shall provide to the Prepetition ABL Agent for delivery to the Prepetition ABL Lenders all reporting required under the Prepetition ABL Credit Agreement consistent with the Debtors' prepetition practices and in accordance with its terms and any other reporting reasonably requested by the Prepetition ABL Agent or its advisors as soon as reasonably practicable after request; *provided* that, the Debtors shall not be required to deliver audited financials or quarterly financial reporting, and/or compliance certificates pursuant to the delivery of financial reports; *provided*, *further*, upon the reasonable request of the Prepetition ABL Agent, the Debtors or their advisors shall participate in periodic calls with the Prepetition ABL Agent, the Prepetition ABL Lenders, and their advisors. Concurrently with such delivery to the Prepetition ABL Agent, the Debtors shall provide all such reporting in substantially similar form to the Prepetition Term Loan Agent and Prepetition Subordinated Note Agent (for delivery to the Prepetition Term Loan Lenders and Prepetition Subordinated Note Holders) and its advisors, the Consenting Stakeholders and their advisors, and the Creditors' Committee. The reporting referenced in this Paragraph 3(l) shall include a weekly report of estimated administrative claims itemized by creditor.

4. Budget.

(a) Budget Reporting. The Debtors shall deliver to the Directing Cash Collateral Agent,[5] counsel to the other Prepetition Agents, the U.S. Trustee, and the Creditors' Committee, the following: no later than every second Thursday (but if such Thursday is not a Business Day, the next Business Day), beginning with Thursday, September 3, 2026, a rolling

[5] "Directing Cash Collateral Agent" shall mean, (a) as to Cash Collateral that is ABL Priority Collateral, the Prepetition ABL Agent or, following the indefeasible payment in full in cash and cash collateralization (as applicable) of all of the Prepetition ABL Obligations, the Prepetition Term Loan Agent, and (b) as to Cash Collateral that is Term Loan Priority Collateral, the Prepetition Term Loan Agent or, following the indefeasible payment in full in cash and cash collateralization (as applicable) of all of the Prepetition Term Loan Obligations, the Prepetition ABL Agent.

Exhibit 1

Initial Budget

Case 1:26-cv-03369-DTG Document 3-1 Filed 11/10/26 Page 180 of 297 PageID #: 318

Noble Equity Holdings, LLC
11 Week Cash Collateral Budget

Forecast All numbers in US$'000 Week ending	Week 1 10/16/2026	Week 2 10/23/2026	Week 3 10/30/2026	Week 4 11/6/2026	Week 5 11/13/2026	Week 6 11/20/2026	Week 7 11/27/2026	Week 8 12/4/2026	Week 9 12/11/2026	Week 10 12/18/2026	Week 11 12/25/2026	11-Week Period Total
Total Receipts	1,223	1,800	3,239	1,717	2,351	2,266	2,923	1,812	1,717	1,731	1,653	22,433
Vendor Disbursements	900	668	250	200	150	100	50	50	50	25	25	2,468
Operating Expenses	250	196	50	50	50	50	50	50	50	50	50	896
Payroll	0	1,519	0	300	0	300	0	300	0	300	0	2,719
Payroll - Wind-Down Staff	0	0	0	361	0	361	0	361	0	181	0	1,264
Pro Fees - Debtor (Ch.11 Period)	597	452	552	427	402	402	602	310	235	285	60	4,326
Pro Fees - Lender (Ch.11 Period)	240	0	315	0	0	400	0	0	0	400	100	1,455
Pro Fees - Committee (Ch.11 Period)	497	100	25	25	25	25	0	0	0	0	0	697
Pro Fees - Total (Ch.11 Period)	**1,335**	**552**	**892**	**452**	**427**	**827**	**602**	**310**	**235**	**685**	**160**	**6,478**
Employee-Related	250	216	316	0	0	0	0	1,000	0	0	0	1,782
Interest and Others	175	50	50	50	50	50	50	50	50	50	50	675
Total Disbursements	**2,910**	**3,201**	**1,558**	**1,413**	**677**	**1,688**	**752**	**2,121**	**385**	**1,291**	**285**	**16,282**
Total Net Cash Flow	**(1,686)**	**(1,401)**	**1,681**	**304**	**1,674**	**578**	**2,171**	**(309)**	**1,332**	**440**	**1,368**	**6,151**
JPM ABL Paydown												
Beginning Balance	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Paydown from Receipts	0	0	0	0	0	0	0	0	0	0	0	0
Drawdown	0	0	0	0	0	0	0	0	0	0	0	0
Adjustments to Paydown	0	0	0	0	0	0	0	0	0	0	0	0
Ending Balance	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Cash Balance												
Beginning Cash Balance	**4,948**	**3,012**	**1,611**	**3,000**	**3,000**	**3,000**	**3,000**	**3,000**	**2,691**	**3,000**	**3,000**	**4,948**
Net Cash Flow (Based on Drawdown / (Paydown))	(1,686)	(1,401)	1,681	304	1,674	578	2,171	(309)	1,332	440	1,368	6,151
Adjustments to Paydown	0	0	0	0	0	0	0	0	0	0	0	0
Excess Cash Sweep to Term Loan	(250)	0	(292)	(304)	(1,674)	(578)	(2,171)	0	(1,023)	(440)	(1,368)	(8,099)
Ending Cash Balance	**3,012**	**1,611**	**3,000**	**3,000**	**3,000**	**3,000**	**3,000**	**2,691**	**3,000**	**3,000**	**3,000**	**3,000**
Pro Fee Reserve (BK)												
Beginning Reserve	**4,172**	**5,266**	**1,617**	**2,194**	**2,646**	**3,074**	**1,889**	**2,491**	**1,236**	**1,471**	**83**	**4,172**
Accrual	1,094	552	577	452	427	427	602	310	235	285	60	5,023
Payout	0	(4,202)	0	0	0	(1,612)	0	(1,565)	0	(1,674)	0	(9,053)
Further Payout	0	0	0	0	0	0	0	0	0	0	0	0
Ending Balance	**5,266**	**1,617**	**2,194**	**2,646**	**3,074**	**1,889**	**2,491**	**1,236**	**1,471**	**83**	**143**	**143**
BT Term Loan Balance												
Beginning Balance	**130,513**	**130,263**	**130,263**	**129,972**	**129,668**	**127,994**	**127,416**	**125,246**	**125,246**	**124,223**	**123,782**	**130,513**
Additions	0	0	0	0	0	0	0	0	0	0	0	0
Excess Cash Sweep	(250)	0	(292)	(304)	(1,674)	(578)	(2,171)	0	(1,023)	(440)	(1,368)	(8,099)
Ending Balance	**130,263**	**130,263**	**129,972**	**129,668**	**127,994**	**127,416**	**125,246**	**125,246**	**124,223**	**123,782**	**122,414**	**122,414**

EXHIBIT 4-K

Monthly Operating Report of Noble Supply & Logistics, LLC for September 2026, Bankr. D.I. 369 at 1–2

UNITED STATES BANKRUPTCY COURT

DISTRICT OF Delaware

In Re. Noble Supply & Logistics, LLC §
§
§
Debtor(s) §

Case No. 26-11369

Lead Case No. 26-11369

☒ Jointly Administered

Monthly Operating Report

Chapter 11

Reporting Period Ended: 09/30/2026

Petition Date: 08/30/2026

Months Pending: 1

Industry Classification: 4 2 3 8

Reporting Method: Accrual Basis ◉ Cash Basis ○

Debtor's Full-Time Employees (current): 252

Debtor's Full-Time Employees (as of date of order for relief): 272

Supporting Documentation (check all that are attached):

(For jointly administered debtors, any required schedules must be provided on a non-consolidated basis for each debtor)

- ☒ Statement of cash receipts and disbursements
- ☒ Balance sheet containing the summary and detail of the assets, liabilities and equity (net worth) or deficit
- ☒ Statement of operations (profit or loss statement)
- ☒ Accounts receivable aging
- ☒ Postpetition liabilities aging
- ☐ Statement of capital assets
- ☐ Schedule of payments to professionals
- ☐ Schedule of payments to insiders
- ☐ All bank statements and bank reconciliations for the reporting period
- ☐ Description of the assets sold or transferred and the terms of the sale or transfer

/s/ Patrick Reilley
Signature of Responsible Party

Patrick Reilley
Printed Name of Responsible Party

10/21/2026
Date

500 Delaware Ave., Suite 600, Wilmington, DE 19801
Address

STATEMENT: This Periodic Report is associated with an open bankruptcy case; therefo
1320.4(a)(2) applies.

2611369261021000000000026

Debtor's Name Noble Supply & Logistics, LLC Case No. 26-11369

Part 1: Cash Receipts and Disbursements		Current Month	Cumulative
a.	Cash balance beginning of month	$1,305,849	
b.	Total receipts (net of transfers between accounts)	$16,295,083	$16,295,083
c.	Total disbursements (net of transfers between accounts)	$7,063,619	$7,063,619
d.	Cash balance end of month (a+b-c)	$10,537,312	
e.	Disbursements made by third party for the benefit of the estate	$0	$0
f.	Total disbursements for quarterly fee calculation (c+e)	$7,063,619	$7,063,619

Part 2: Asset and Liability Status (Not generally applicable to Individual Debtors. See Instructions.)		Current Month
a.	Accounts receivable (total net of allowance)	$67,295,959
b.	Accounts receivable over 90 days outstanding (net of allowance)	$29,262,437
c.	Inventory (Book ◉ Market ○ Other ○ (attach explanation))	$58,445,380
d	Total current assets	$1,317,857,303
e.	Total assets	$1,329,375,287
f.	Postpetition payables (excluding taxes)	$3,587,365
g.	Postpetition payables past due (excluding taxes)	$952,260
h.	Postpetition taxes payable	$-110,351
i.	Postpetition taxes past due	$0
j.	Total postpetition debt (f+h)	$3,477,013
k.	Prepetition secured debt	$230,873,616
l.	Prepetition priority debt	$672,949
m.	Prepetition unsecured debt	$328,365,628
n.	Total liabilities (debt) (j+k+l+m)	$563,389,206
o.	Ending equity/net worth (e-n)	$765,986,081

Part 3: Assets Sold or Transferred		Current Month	Cumulative
a.	Total cash sales price for assets sold/transferred outside the ordinary course of business	$0	$0
b.	Total payments to third parties incident to assets being sold/transferred outside the ordinary course of business	$0	$0
c.	Net cash proceeds from assets sold/transferred outside the ordinary course of business (a-b)	$0	$0

Part 4: Income Statement (Statement of Operations) (Not generally applicable to Individual Debtors. See Instructions.)		Current Month	Cumulative
a.	Gross income/sales (net of returns and allowances)	$17,695,822	
b.	Cost of goods sold (inclusive of depreciation, if applicable)	$17,317,986	
c.	Gross profit (a-b)	$377,836	
d.	Selling expenses	$84,094	
e.	General and administrative expenses	$3,315,294	
f.	Other expenses	$547,568	
g.	Depreciation and/or amortization (not included in 4b)	$150,124	
h.	Interest	$3,192,158	
i.	Taxes (local, state, and federal)	$-46,647	
j.	Reorganization items	$153,103	
k.	Profit (loss)	$-7,017,858	$-1,329,168

EXHIBIT 4-L

United States' Notice of Appeal, Adv. D.I. 48

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,	)	Chapter 11
	)	Case No. 26-11369 (CTG)
	)	
Debtors.[1]	)	(Jointly Administered)
_____	)	
	)	
NOBLE SUPPLY & LOGISTICS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 26-50885 (CTG)
	)	
	)	
DEFENSE LOGISTICS AGENCY,	)	Re: Adv. D.I. XX
	)	
Defendant.	)	
_____	)	

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the United States of America, on behalf of the Defense Logistics Agency, hereby appeals to the United States District Court for the District of Delaware pursuant to 28 U.S.C. § 158(a) and Rules 8002 and 8003 of the Federal Rules of Bankruptcy Procedure, from the anticipated *Order (I) Granting in Part and Denying in Part Motion of Noble Supply & Logistics, LLC For Partial Summary Judgment, (II) Granting in Part and Denying in Part the United States' Motion to Dismiss, and (III) Denying the United States' Cross-Motion for*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

Summary Judgment [Adv. D.I. XX] (the "Order") and an associated *Memorandum Opinion* [Adv. D.I. 42] entered in the above-captioned adversary proceeding by the Honorable Craig T. Goldblatt, United States Bankruptcy Judge of the United States Bankruptcy Court for the District of Delaware on November 2, 2026. The Court has not yet entered the Order.

PLEASE TAKE FURTHER NOTICE that a copy of the Memorandum Opinion is attached hereto as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that the names of all the parties to the Order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

APPELLANT	**Counsel**	
United States of America, on behalf of the Department of Defense's Defense Logistics Agency	**United States Department of Justice** Brett A. Shumate Marc S. Sacks Mary A. Schmergel Alastair M. Gesmundo Ryan W. Lamb Louisa A. Soulard P.O. Box 875, Ben Franklin Station Washington, DC 20044-0875 Telephone: (202) 436-6896	Creditor
APPELLEES	**Counsel**	
Noble Supply & Logistics, LLC	**Cole Schotz P.C.** Justin R. Alberto G. David Dean Patrick J. Reilley Jack N. Dougherty 500 Delaware Avenue, Suite 600 Wilmington, DE 19801 Telephone: (302) 652-3131 and Michael D. Sirota Seth Van Aalten Sarah A. Carnes Anthony De Leo	Debtors

	1325 Avenues of the Americas, 19th Foor New York, NY 10019 Telephone: (212) 752-8000	

Dated: November 5, 2026

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General

/s/Augustus T. Curtis
MARC S. SACKS
MARY A. SCHMERGEL
AUGUSTUS CURTIS
ALASTAIR M. GESMUNDO
RYAN W. LAMB
LOUISA A. SOULARD
Commercial Litigation Branch, Civil Division United States Department of Justice
P.O. Box 875, Ben Franklin Station
Washington, DC 20044
(202) 258-3663

Attorneys for the United States of America

EXHIBIT 4-M

United States' Amended Notice of Appeal, Adv. D.I. 51 (without its Exhibit A, which is Exhibit 1)

et al.

AMENDED NOTICE OF APPEAL

PLEASE TA E NOTICE

rder (I) Granting in Part and Denying in Part Motion of Noble Supply & Logistics, LLC For Partial Summary udgment, (II) Granting in Part and Denying in Part the United States' Motion to Dismiss, and (III) Denying the United States' Cross Motion for

Summary udgment ____

Memorandum pinion

PLEASE TA E FURTHER NOTICE

Exhibit A

PLEASE TA E FURTHER NOTICE

APPELLANT	Counsel	
United States of America, on behalf of the Department of Defense's Defense Logistics Agency	**United States Department of Justice**	
APPELLEES	**Counsel**	
Noble Supply Logistics, LLC	**Cole Schot P.C.**	

/s/Augustus T. Curtis

Attorneys for the United States of America

CERTIFICATE OF SERVICE

Amended Notice of Appeal

Counsel to the Plaintiff

Office of the United States Trustee

/s/ Augustus T. Curtis

EXHIBIT 4-N

Order Granting the Debtors' Emergency Motion to Compel the Defense Logistics Agency to Perform Under Executory Contracts (the "September Order"), entered Sept. 18, 2026, Bankr. D.I. 151

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: Noble Supply & Logistics, LLC, *et al.*, Debtors.	Chapter 11 Case No. 26-11369 (CTG) **Related Docket No. 102**

ORDER

Upon consideration of the Debtors' Emergency Motion [D.I. 102] for entry of an order Compelling the Defense Logistics Agency to Perform Under Executory Contracts, (II) Enforcing the Automatic Stay, (III) Ordering the Defense Logistics Agency to Cease All Violations of the Automatic Stay, and (IV) Granting Related Relief (the "Motion") and upon consideration of the Motion, the Albergotti Declaration, the Van Aalten Declaration, and the objection of the United States of America and the declarations in support thereof [Docket Nos. 124, 125, 127, 129] (the "Objection"); and the United States District Court for the District of Delaware having jurisdiction to consider this Motion under 28 U.S.C. § 1334, which was referred to this Court under 28 U.S.C. § 157 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion and the Objection and having heard the statements in support of the relief requested therein and in opposition thereto at hearings before this Court on September 16, 2028 and September 18, 2026 (the "Hearings"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearings establish just cause for the relief granted herein; and upon all of the proceedings

had before this Court; and after due deliberation and sufficient cause appearing therefor, and for the reasons set forth on the record herein and in the Hearings; it is HEREBY ORDERED THAT:

1. The Motion is GRANTED to the extent set forth herein.

2. Based on the evidence presented at the Hearings, the Court finds that the Defense Logistics Agency ("DLA") imposed an administrative freeze on payments otherwise due to the debtors to preserve its right of setoff with respect to amounts that the DLA alleges were due to it from the debtors.

3. *Citizens Bank of Maryland v. Strumpf*, 516 U.S. 16, 21 (1995) authorizes the "temporary refusal of a creditor to pay a debt that is subject to setoff against a debt owed" to the debtor. The Supreme Court's opinion, however, implicitly acknowledges that the amount that is frozen cannot be more than is reasonably necessary to protect the creditor's right of setoff. "We do not consider … respondent's contention that the portion of the account subjected to the 'administrative hold' exceeded the amount properly subject to setoff." *Id.* at 19.

4. The Court here finds that the scope and duration of the administrative freeze imposed by the DLA exceeded what is authorized under *Strumpf*. The DLA's administrative freeze covered payables beyond those necessary fully to protect its right of setoff. The amounts owed to the DLA from the debtors remain unliquidated and disputed. Even so, the Court finds that the DLA could have paid the amounts that came due without prejudicing its right to setoff even if the debtors owe the DLA the maximum amount that the DLA asserts is owed to it. In addition, while the creditor in *Strumpf* promptly moved the bankruptcy court for setoff following the imposition of the administrative freeze, here the DLA did not. The matter was brought before the Court only on an emergency motion of the debtors seeking to compel payment.

5. While the debtors initiated this contested matter by way of a motion rather than filing an adversary proceeding, the Court finds that the United States has received actual notice of the matter, that the shortening of time was due and proper under the circumstances presented, and therefore that proceeding by way of motion did not affect the substantial rights of any party. *See* Fed. R. Bankr. P. 9005.

6. The Court finds based on the evidence presented at the hearing that the DLA improperly exercised setoff rights against $6,972,618 in payables that would have otherwise been made by the date of

this Order. The Court concludes that the DLA's rights of setoff are adequately protected by other payables that are or will come due to the debtors. At the same time, the debtors recognize that they owe the DLA at least $538,183.63 under the terms of a settlement agreement (without prejudice to the parties' rights with respect to further amounts that the DLA contends are due to it).

7. The DLA is accordingly ordered, pursuant to § 542 of the Bankruptcy Code, to pay to the debtors, within three business days of the entry of this Order, $6,972,618, minus the $538,183.63 that the debtors acknowledge may be setoff. Accordingly, the amount that the DLA must remit to the debtors within three business days is $6,434,434.37.

8. The DLA shall otherwise remit payment to the Debtors in the ordinary course of business pursuant to applicable federal law and regulations, with due regard for the exigencies of the circumstances. Any disputes concerning payments shall be raised in the ordinary course pursuant to federal law and regulation, again with due regard for the exigencies of the circumstances. The parties shall negotiate in good faith with respect to any payment dispute. This Court, however, expressly retains jurisdiction over any such dispute.

9. To the extent the DLA contends, at any point, that amounts due to it are not adequately protected by future payables due to the debtors, the DLA may seek relief from the automatic stay. On a hearing for stay relief, the Court is prepared to conduct an estimation proceeding pursuant to § 502(c) to determine the amount subject to setoff. The DLA may not, however, otherwise impose an administrative freeze or exercise setoff or replacement rights without seeking and obtaining relief from this Court.

10. The parties are directed to meet and confer with respect to future rights of setoff and the setting of hearing on, and briefing with respect to, any motion for relief from stay to conduct an estimation and/or to effect setoff. The Court reserves jurisdiction to resolve any dispute over such matters.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

12. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof. At the hearing held on September 18, 2026, the

United States sought a stay pending appeal and in the alternative an administrative stay to permit it to seek a stay pending appeal from the district court. In view of the record in this case, which demonstrates the debtors' urgent need for the amounts due in order to avoid conversion of this case to chapter 7 and the accompanying destruction of potential value, the Court denied that motion on the record.

13. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

14. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: September 18th, 2026
Wilmington, Delaware

CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,[1] Debtors.	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
DEFENSE LOGISTICS AGENCY, Appellant, v. NOBLE SUPPLY & LOGISTICS, LLC, Appellee.	C.A. No. 26-1433 (UNA) Adv. Proc. No. 26-50885 (CTG)

ORDER GRANTING A TEMPORARY ADMINISTRATIVE STAY
AND SETTING A RESPONSE DEADLINE

Upon the Emergency Motion of the United States for a Stay Pending Appeal and a Temporary Administrative Stay [D.I. __] (the "Motion"); and the Court finding

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

that a temporary stay is appropriate to preserve the status quo while the Court considers the Motion; IT IS HEREBY ORDERED THAT:

1. The order of the United States Bankruptcy Court for the District of Delaware entered in Adv. Proc. No. 26-50885 (CTG) at Adv. D.I. 50 (the "Turnover Order") is temporarily STAYED until November 16, 2026, at 5:00 p.m. (ET).

2. Noble Supply & Logistics, LLC ("Noble") shall file any response to the Motion by November 9, 2026, at 12:00 p.m. (ET)]. The United States may file a reply by November 10, 2026, at 9:00 a.m.

3. If the Court determines a hearing on the Motion is necessary, it shall schedule such hearing on November 10, 2026, and render a decision following the hearing.

4. No bond or other security is required.

5. This Order does not reflect any view on the merits of the Motion or of the appeal.

Dated: _____, 2026

_____
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,[1] Debtors.	Chapter 11 Case No. 26-11369 (CTG) (Jointly Administered)
DEFENSE LOGISTICS AGENCY, Appellant, v. NOBLE SUPPLY & LOGISTICS, LLC, Appellee.	C.A. No. 26-1433 (UNA) Adv. Proc. No. 26-50885 (CTG)

ORDER GRANTING THE UNITED STATES' MOTION
FOR A STAY PENDING APPEAL

Upon the Emergency Motion of the United States for a Stay Pending Appeal and a Temporary Administrative Stay [D.I. 50] (the "Motion"); and the Court having

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).

considered the Motion, any response to it, and the record; and the Court having found that a stay pending appeal is warranted; IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth in this Order.

2. The order of the United States Bankruptcy Court for the District of Delaware entered in Adv. Proc. No. 26-50885 (CTG) at Adv. D.I. 50 (the "Turnover Order") is STAYED pending resolution of this appeal.

3. No bond or other security is required. Fed. R. Bankr. P. 8007(d)(1).

4. Any payment the Turnover Order requires is due three business days after the stay ends.

5. Nothing in this Order waives the sovereign immunity of the United States or its defenses to the jurisdiction of the Bankruptcy Court.

Dated: _____, 2026

_____
UNITED STATES DISTRICT JUDGE